# Palo Alto Police Department Policy Manual

## Redacted Version for Website*

## Updated May 1, 2026

* See explanation and additional information on the following page.

Please note that we have redacted (that is, removed) select portions of certain policies from this publicly-available version of the Palo Alto Police Department Policy Manual. The portions of the policies not disclosed relate to sensitive security issues, police tactics, and/or officer safety, and are withheld from disclosure in accordance with California Government Code §§6254(f), 6254(aa), 6254 (ab), and/or 6254.19. The ten policies that contain select portions we have withheld pursuant to these state laws are as follows:

Policy 314: Vehicle Pursuits
Policy 316: Officer Response to Calls
Policy 323: Search and Seizure
Policy 364: StarChase Vehicle Pursuit Management System
Policy 408: Crisis Response Unit
Policy 414: Hostage and Barricade Incidents
Policy 416: Response to Bomb Calls
Policy 424: Rapid Response and Deployment
Policy 432: Patrol Rifles and Shotguns
Policy 458: Foot Pursuits

**Please note:**

- The redacted portions of the above policies are denoted by a solid dark rectangle obscuring the withheld text.
- Not every sequential number has an associated policy. Some numbers are unassigned and are simply placeholders in the event future policies are needed.
- Note that the date published in the footer of each page of the Policy Manual lists the last date that *any* single edit to any policy within the manual actually occurred. Each quarter, we publish a current version of the Policy Manual, even if no updates have been made in the past quarter.

# MISSION STATEMENT
MISSION STATEMENT

To Proudly Serve and Protect the Public with Respect and Integrity.

## VISION STATEMENT

Through the Leadership and Commitment of Employees, the Palo Alto Police Department will build Trust and Respect with the Public and the Law Enforcement Profession.

## CORE VALUE STATEMENT

We value and expect teamwork, trust, integrity, accountability, a positive attitude and the professional, impartial treatment of all.

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# Table of Contents

**MISSION STATEMENT. . . . . 1**

**Chapter 1 - Law Enforcement Role and Authority. . . . . 7**

100 - Law Enforcement Authority. . . . . 8
102 - Chief Executive Officer. . . . . 11
104 - Oath of Office. . . . . 12
106 - Policy Manual. . . . . 13

**Chapter 2 - Organization and Administration. . . . . 16**

200 - Organizational Structure and Responsibility. . . . . 17
204 - Interim Directive. . . . . 20
206 - Emergency Management Plan. . . . . 21
208 - Training. . . . . 24
212 - Email/Personal Mail/Telephone Usage/Voicemail. . . . . 33
214 - Administrative Communications. . . . . 39
216 - Staffing Levels. . . . . 40
218 - License to Carry a Firearm. . . . . 41
220 - Retiree Concealed Firearms. . . . . 49
222 - Gun Permit Policy. . . . . 54

**Chapter 3 - General Operations. . . . . 56**

300 - Use of Force. . . . . 57
302 - Use of Force Review Boards. . . . . 71
306 - Handcuffing and Restraints. . . . . 74
308 - Control Devices and Techniques. . . . . 78
309 - Conducted Energy Device. . . . . 83
310 - Officer-Involved Shootings and Deaths. . . . . 90
312 - Firearms. . . . . 97
314 - Vehicle Pursuits. . . . . 112
316 - Officer Response to Calls. . . . . 125
317 - Opioid Medical Aid and Response. . . . . 132
318 - Canines. . . . . 135
320 - Domestic Violence. . . . . 146
321 - Gun Violence Restraining Orders. . . . . 150
323 - Search and Seizure. . . . . 156
325 - Temporary Custody of Juveniles. . . . . 162
327 - Senior and Disability Victimization. . . . . 178
329 - Discriminatory Harassment. . . . . 192
331 - Child Abuse. . . . . 198
333 - Missing Persons. . . . . 205
335 - Public Alerts. . . . . 211
337 - Victim and Witness Assistance. . . . . 217
339 - Hate Crimes. . . . . 220
341 - Standards of Conduct. . . . . 231

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343 - Information Technology Use. . . . . 241
345 - Report Preparation. . . . . 245
347 - Media Relations. . . . . 249
349 - Subpoenas and Court Appearances. . . . . 253
351 - Reserve Officers. . . . . 258
353 - Outside Agency Assistance. . . . . 264
357 - Registered Offender Information. . . . . 266
359 - Major Incident Notification. . . . . 269
361 - Death Investigation. . . . . 271
363 - Identity Theft. . . . . 276
364 - StarChase Vehicle Pursuit Management System. . . . . 278
365 - Private Persons Arrests. . . . . 283
369 - Limited English Proficiency Services. . . . . 285
370 - ADA Compliance. . . . . 291
372 - Communications with Persons with Disabilities. . . . . 300
374 - Mandatory Employer Notification. . . . . 308
376 - Biological Samples. . . . . 310
378 - Chaplains. . . . . 313
380 - Public Safety Video Surveillance System. . . . . 318
381 - Child and Dependent Adult Safety. . . . . 322
382 - Service Animals. . . . . 325
387 - Off-Duty Law Enforcement Actions. . . . . 328
393 - Native American Graves Protection and Repatriation. . . . . 330
395 - Generative Artificial Intelligence Use. . . . . 332

**Chapter 4 - Patrol Operations. . . . . 334**

400 - Patrol Function. . . . . 335
402 - Bias-Based Policing. . . . . 337
404 - Briefing Training. . . . . 341
406 - Crime And Disaster Scene Integrity. . . . . 342
407 - Community Service Officers Assigned to Patrol. . . . . 344
408 - Crisis Response Unit. . . . . 347
410 - Ride-Along Policy. . . . . 359
412 - Hazardous Material Response. . . . . 362
414 - Hostage and Barricade Incidents. . . . . 364
416 - Response to Bomb Calls. . . . . 369
418 - Mental Illness Commitments. . . . . 374
419 - Psychiatric Emergency Response Team (PERT). . . . . 378
420 - Cite and Release Policy. . . . . 384
422 - Foreign Diplomatic and Consular Representatives. . . . . 388
424 - Rapid Response and Deployment. . . . . 392
428 - Immigration Procedures. . . . . 395
430 - Emergency Utility Service. . . . . 398
432 - Patrol Rifles and Shotguns. . . . . 399
434 - Aircraft Accidents. . . . . 403
436 - Field Training Officer Program. . . . . 408
438 - Obtaining Air Support. . . . . 411

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440 - Field Interviews & Photographing of Field Detainees. . . . . 412
442 - Criminal Organizations. . . . . 418
444 - Watch Commanders. . . . . 423
446 - Field-Based Video Policy. . . . . 424
448 - Mobile Data Computer Use. . . . . 433
450 - Use of Audio Recorders. . . . . 436
452 - Medical Marijuana. . . . . 440
454 - Bicycle Patrol Program. . . . . 445
458 - Foot Pursuits. . . . . 449
459 - Global Positioning System. . . . . 454
462 - Automated License Plate Readers (ALPRs). . . . . 455
467 - First Amendment Assemblies. . . . . 458
469 - Medical Aid and Response. . . . . 466
470 - Terrorism Liaison Officer. . . . . 470
471 - Disengagement – Non-Criminal Barricade. . . . . 474

**Chapter 5 - Traffic Operations. . . . . 478**

500 - Traffic Function and Responsibility. . . . . 479
501 - Traffic Motorcycle Units. . . . . 482
502 - Traffic Collision Reporting. . . . . 484
510 - Vehicle Towing and Release. . . . . 492
512 - Vehicle Impound Hearings. . . . . 497
514 - Impaired Driving. . . . . 499
516 - Traffic Citations. . . . . 504
520 - Disabled Vehicles. . . . . 508
524 - 72-Hour Parking Violations. . . . . 509

**Chapter 6 - Investigation Operations. . . . . 511**

600 - Investigation and Prosecution. . . . . 512
602 - Sexual Assault Investigations. . . . . 519
606 - Asset Forfeiture. . . . . 526
608 - Informants. . . . . 532
610 - Eyewitness Identification. . . . . 539
612 - Brady Material Disclosure. . . . . 543
613 - Warrant Service. . . . . 545
614 - Operations Planning and Deconfliction. . . . . 549
615 - Forensic Genetic Genealogy. . . . . 555

**Chapter 7 - Equipment. . . . . 559**

700 - Department Owned and Personal Property. . . . . 560
702 - Personal Communication Devices. . . . . 563
704 - Vehicle Maintenance. . . . . 566
706 - Vehicle Use. . . . . 568
707 - Personal Protective Equipment. . . . . 575
709 - Reflectorized Vests. . . . . 577
711 - Digital Imaging. . . . . 578
713 - Patrol Team Boxes. . . . . 582

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716 - Military Equipment. . . . . 583

**Chapter 8 - Support Services. . . . . 594**

800 - Crime Analysis. . . . . 595
802 - The Communications Center. . . . . 597
804 - Property and Evidence Section. . . . . 603
806 - Technical Services Division. . . . . 619
808 - Restoration of Firearm Serial Numbers. . . . . 623
810 - Records Maintenance and Release. . . . . 625
812 - Protected Information. . . . . 635
814 - Computers and Digital Evidence. . . . . 641
820 - Animal Control. . . . . 645

**Chapter 9 - Custody. . . . . 656**

900 - Temporary Custody of Adults. . . . . 657
902 - Custodial Searches. . . . . 669
904 - Prison Rape Elimination. . . . . 675
905 - Transporting Persons in Custody. . . . . 685

**Chapter 10 - Personnel. . . . . 690**

1000 - Recruitment and Selection. . . . . 691
1002 - Evaluation of Employees. . . . . 698
1004 - Promotional and Transfer Policy. . . . . 701
1006 - Grievance Procedure. . . . . 715
1008 - Anti-Retaliation. . . . . 717
1010 - Reporting of Arrests, Convictions, and Court Orders. . . . . 721
1011 - Address and Telephone Number Changes. . . . . 723
1012 - Drug- and Alcohol-Free Workplace. . . . . 724
1014 - Sick Leave. . . . . 727
1016 - Communicable Diseases. . . . . 729
1018 - Smoking and Tobacco Use. . . . . 740
1020 - Personnel Complaints. . . . . 741
1022 - Seat Belts. . . . . 751
1024 - Body Armor. . . . . 753
1026 - Personnel Records. . . . . 755
1030 - Employee Commendations. . . . . 765
1032 - Fitness for Duty. . . . . 769
1033 - Sleeping Quarters. . . . . 772
1034 - Meal Periods and Breaks. . . . . 773
1035 - Lactation Breaks. . . . . 774
1036 - Time Card Procedures. . . . . 776
1038 - Overtime. . . . . 777
1040 - Outside Employment. . . . . 787
1042 - On Duty Injuries. . . . . 792
1044 - Personal Appearance Standards. . . . . 802
1045 - Uniforms and Civilian Attire. . . . . 805
1046 - Visible Display of Identification. . . . . 812

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1048 - Facial Coverings. . . . . 814
1050 - Police Explorer Program. . . . . 816
1052 - Nepotism and Conflicting Relationships. . . . . 821
1054 - Department Badges. . . . . 824
1056 - Temporary Modified-Duty Assignments. . . . . 826
1060 - Employee Speech, Expression and Social Networking. . . . . 829
1061 - Illness and Injury Prevention. . . . . 833
1062 - Peer Support. . . . . 839

**Attachments. . . . . 844**
Statutes and Legal Requirements.pdf. . . . . 845
Supplemental Hate Crime Report.pdf. . . . . 846
Hate Crime Checklist.pdf. . . . . 847
Supplemental Hate Crime Report-Agency.pdf. . . . . 848

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# Chapter 1 - Law Enforcement Role and Authority

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# Law Enforcement Authority

## 100.1 PURPOSE AND SCOPE

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

## 100.2 PEACE OFFICER POWERS

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

### 100.2.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE PALO ALTO POLICE DEPARTMENT

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

(a) When the officer has probable cause to believe the person committed a felony.

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

(c) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the officer such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.

(d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.

(e) In compliance with an arrest warrant.

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

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

### 100.2.2 OREGON AUTHORITY

Sworn members of this Department who enter the state of Oregon in order to provide or attempt to provide law enforcement assistance have Oregon peace officer authority within 50 miles from the California-Oregon border (ORS 133.405). Such authority shall only apply when officers are acting:

(a) In response to a request for law enforcement assistance initiated by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police.

(b) In response to a reasonable belief that emergency law enforcement assistance is necessary to preserve life, and circumstances make it impractical for Oregon law enforcement officials to formally request assistance.

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(c) For the purpose of assisting Oregon law enforcement officials with emergency assistance in response to criminal activity, traffic accidents, emergency incidents or other similar public safety situations, regardless of whether an Oregon law enforcement official is present at the scene of the incident.

Palo Alto Police Department officers have no authority to enforce Oregon traffic or motor vehicle laws.

Whenever practicable, officers should seek permission from a supervisor before entering Oregon to provide law enforcement services. As soon as practicable, officers exercising law enforcement authority in Oregon shall submit any appropriate written reports concerning the incident to the Oregon agency having primary jurisdiction over the area in which the incident occurred.

### 100.2.3 TIME OF MISDEMEANOR ARRESTS

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

(a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:

1. A misdemeanor committed in the presence of the officer.
2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).

(b) The arrest is made in a public place.

(c) The arrest is made with the person in custody pursuant to another lawful arrest.

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

### 100.2.4 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE PALO ALTO POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Palo Alto Police Department includes (Penal Code § 830.1; Penal Code § 836):

(a) When the officer has probable cause to believe the person has committed a felony, whether or not committed in the presence of the officer.

(b) When the officer has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the officer.

(c) When the officer has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the officer and the officer reasonably believes there is an immediate danger to person or property, or of escape.

(d) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized or required by statute even though the offense has not been committed in the presence of the officer such as certain domestic violence offenses.

(e) In compliance with an arrest warrant.

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### 100.3 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

(a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.

(b) When an officer enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

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

### 100.4 POLICY

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

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

### 100.5 CONSTITUTIONAL REQUIREMENTS

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

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# Chief Executive Officer

## 102.1 PURPOSE AND SCOPE

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

### 102.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

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

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# Oath of Office

### 104.1 PURPOSE AND SCOPE

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

### 104.2 POLICY

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

### 104.3 OATH OF OFFICE

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

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

### 104.4 MAINTENANCE OF RECORDS

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

### 104.5 POLICY ISSUE DATE

Updated: 12-8-16

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# Policy Manual

## 106.1 PURPOSE AND SCOPE

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

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

## 106.2 POLICY

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

### 106.2.1 DISCLAIMER

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

## 106.3 AUTHORITY

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

## 106.4 DEFINITIONS

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

**Adult** - Any person 18 years of age or older.

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

**CHP**- The California Highway Patrol.

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**CFR** - Code of Federal Regulations.

**City** - The City of Palo Alto.

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

**Department/PAPD** - The Palo Alto Police Department.

**DMV** - The Department of Motor Vehicles.

**Employee/personnel** - Any person employed by the Department.

**Juvenile**- Any person under the age of 18 years.

**Manual** - The Palo Alto Police Department Policy Manual.

**May** - Indicates a permissive, discretionary or conditional action.

**Member** - Any person employed or appointed by the Palo Alto Police Department, including full-time sworn officers, reserve officers, civilian employees and volunteers.

**Officer** - Those employees, regardless of rank, who are sworn peace officers of the Palo Alto Police Department.

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

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

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

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

**Shall or will** - Indicates a mandatory action.

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

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

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

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

**USC** - United States Code.

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### 106.5 ISSUING THE POLICY MANUAL

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

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

### 106.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

### 106.7 REVISIONS TO POLICIES

All employees are responsible for keeping abreast of all Policy Manual revisions. The Personnel and Training Lieutenant will forward revisions to the Policy Manual as needed to all personnel via electronic mail. Each unit manager will ensure that employees under his/her command are aware of any Policy Manual revisions.

All employees are responsible for keeping abreast of all Policy Manual revisions. All changes to the Policy Manual will be posted on the S:drive link, PD folder - Policy Manual Interim Directives. Lieutenants will forward interim directives and/or revisions to the Policy Manual as needed to all personnel via electronic mail.

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# Chapter 2 - Organization and Administration

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# Organizational Structure and Responsibility

## 200.1 PURPOSE AND SCOPE

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

## 200.2 DIVISIONS

The Chief of Police is responsible for administering and managing the Palo Alto Police Department. There are four divisions in the Police Department as follows:

- Administration
- Field Services
- Investigative Services
- Technical Services

### 200.2.1 ADMINISTRATION DIVISION

The Administrative Services Division commanded by the Police Chief whose primary responsibility is to provide general management direction and control for the Administrative Services Division. The Administrative Services Division consists of Administrative Services and the Personnel and Training Unit.

### 200.2.2 FIELD SERVICES DIVISION

The Field Services Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for that Division. The Field Services Division consists of uniformed Patrol and Special Operations, Traffic, and Reserve Officers.

### 200.2.3 INVESTIGATIVE SERVICES DIVISION

The Investigative Services Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for that division. The Investigative Services Division consists of Investigations, Property and Evidence and Animal Services.

### 200.2.4 TECHNICAL SERVICES DIVISION

The Technical Services Division is commanded by the Technical Services Coordinator. The Technical Services Division consists of the Records Unit, Communications, Crime Analysis, Technology and Radio Services.

## 200.3 COMMAND PROTOCOL

### 200.3.1 SUCCESSION OF COMMAND

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

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Except when designated as above, the order of command authority in the absence or unavailability of the Chief of Police is as follows:

(a) Field Services Division Captain

(b) Investigative Services Division Captain

(c) Watch Commander

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

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

200.3.4 RESPONSIBILITY OF RANK
In order to ensure that the Palo Alto Police Department can effectively accomplish its mission, it is essential that all supervisors represent the values of the organization and serve as role models to the officers and the community. The higher rank an individual achieves, the higher level of expectation is applied.

200.3.5 PROCEDURE
Members within each of the following ranks will at all times discharge their duties in a manner, which reflects a commitment to the highest standards of the Palo Alto Police Department and the law enforcement profession.

- Chief of Police
- Assistant Police Chief
- Captain/Technical Services Coordinator
- Administrative Services Coordinator
- Lieutenant/Manager
- Sergeant/Supervisor
- Agent/Lead

Duties and responsibilities of each rank shall include, but not limited to the following:

(a) Display positive, professional leadership;

(b) Demonstrate the highest standards of integrity;

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(c) Enforce City and Department rules, regulations, policies and procedures consistently and fairly;

(d) Provide timely, accurate and complete communications to superiors, peers and subordinates;

(e) Clarify goals, objectives and performance standards for subordinates;

(f) Provide clear direction and timely feedback to subordinates;

(g) Recognize and reward good work;

(h) Confront problems and initiate timely and appropriate corrective action;

(i) Maintain professional competency in administrative, cognitive, technical and tactical areas;

(j) Demonstrate an understanding of the City budget and administrative processes. Manage assigned budget and resources;

(k) Seek ownership in problems;

(l) Ensure accountability in superiors, peers, and subordinates;

(m) Be a visionary leader. Support innovation and change;

(n) Follow through on commitments in a timely manner;

(o) Be fair and consistent in decision making and in dealing with all people;

(p) Train, mentor and develop subordinates;

(q) Have a thorough knowledge of conditions, which affect his/her unit or work group (e.g., crime, traffic, legal issues, local political and social issues);

(r) Appropriately delegate tasks and monitor status;

(s) Seek innovative strategies, and community partnerships in problem solving;

(t) Insure that work plans and operational plans are consistent with Department and City plans and priorities;

(u) Encourage a team approach to problem solving;

(v) Be approachable. Be interested and involved in the work of subordinates;

(w) Create a positive work environment.

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# Interim Directive

## 204.1 PURPOSE AND SCOPE

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

### 204.1.1 INTERIM DIRECTIVE PROTOCOL

Interim Directives will modify and supersede existing policies or create a new policy or procedure as appropriate. They will then be incorporated into the next regular full revision of the Policy Manual.

All Interim Directives shall be issued Department-wide via e-mail.

Once distributed via e-mail, the Interim Directive will also be stored online at "S:\PD\Policy Manual Interim Directives" until such time as they are incorporated into the next regular full revision of the Policy Manual. They will also be printed and kept in the hard copy Policy Manuals kept throughout the Department until such time as they are incorporated into the next regular full revision of the Policy Manual.

## 204.2 RESPONSIBILITIES

### 204.2.1 STAFF

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

### 204.2.2 CHIEF OF POLICE

The Chief of Police shall approve all Interim Directives. The Chief or his/her designee may distribute the Interim Directives to the Department.

## 204.3 ACCEPTANCE OF INTERIM DIRECTIVES

All employees are required to read and obtain any necessary clarification of all Interim Directives. All employees are required to acknowledge in writing the receipt and review of any new Interim Directive. Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Personnel and Training Lieutenant.

## 204.4 POLICY ISSUE DATE

9/14/17

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# Emergency Management Plan

## 206.1 PURPOSE AND SCOPE

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

## 206.2 ACTIVATING THE EMERGENCY PLAN

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

### 206.2.1 RECALL OF PERSONNEL

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

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

### 206.2.2 PROCEDURE

The Incident Command System should be utilized for critical incidents that are planned and non-planned. The Incident Command System shall be used whenever a critical incident:

(a) Will be prolonged in duration;

(b) Utilizes a large amount of resources or personnel;

(c) Includes inter-agency assistance;

(d) Involves multi-agency assistance;

(e) Becomes a multi-agency/multi-jurisdictional operation.

Critical incidents include, but are not limited to: earthquakes, flood, fires and explosions, search and rescue, hazardous materials incidents, aircraft crashes, officer involved shootings, riots and other major incidents.

## 206.3 LOCATION OF THE PLAN

The Emergency Operations Plan is available in the Emergency Operations Center (EOC). All supervisors should familiarize themselves with the Emergency Operations Plan. The Personnel and Training supervisor should ensure that department personnel are familiar with the roles police personnel will play when the plan is implemented.

## 206.4 UPDATING PLANS

The Office of Emergency Services (OES) will consult with the Chief of Police to keep the Emergency Operations Plans and other such documents updated.

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## 206.5 RESPONSIBILITIES OF FIRST RESPONDERS

Very often the beat officer will be the first emergency personnel at the scene of a critical incident. The First Responder has responsibilities which include:

(a) Establishing on-scene command;

(b) Formulating and broadcasting a situation assessment;

(c) Setting up a command post;

(d) Requesting personnel and other resources;

(e) Providing a staging area for responding personnel.

To accomplish these tasks, the First Responder should assume command responsibility, appoint others to control activities, assign missions, gather intelligence, and delegate other tasks as necessary to establish control until relieved.

### 206.5.1 MUTUAL AID

Personnel shall follow the guidelines set forth in the Santa Clara County Protocols Section 16 - Mutual Aid Protocol when requesting formal Law Enforcement Mutual Aid at the Operational Area level.

## 206.6 RESPONSIBILITIES OF ON-SCENE SUPERVISOR

The first supervisor to arrive on scene may assume the role of the Incident Commander at the scene of a critical incident. The on-scene Supervisor should immediately conduct his or her own situation assessment, regardless. The on-scene Supervisor should immediately ensure that an Incident Command Post and a journal log for recording major activities have been established. The on-scene Supervisor should ensure the implementation of the Incident Command System and assign staff to critical control functions (i.e., Planning/Intelligence, Operations, Logistics and Finance).

The on-scene Supervisor should support the IC with:

(a) Perimeter control provisions;

(b) Interior control provisions;

(c) Evacuation procedures;

(d) Liaison with other emergency agencies;

(e) Traffic control plans;

(f) Mobilization of on-duty personnel;

(g) Mutual Aid contingencies;

(h) Notification of command staff (See Policy 358).

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### 206.7 RESPONSIBILITIES OF ON-DUTY WATCH COMMANDER

The on-duty Watch Commander may relieve the on-scene Supervisor or the First Responder, when necessary. The on-duty Watch Commander should conduct a situation assessment and further implement the Incident Command System.

The on-duty Watch Commander will ensure that Communications has notified each Division Captain/Coordinator, and the Police Chief.

### 206.8 RESPONSIBILITIES OF COMMAND STAFF

Command Staff may relieve the on-duty Watch Commander or fill other roles when necessary. The Command Staff should:

(a) Conduct a situation assessment and provide command support for the Incident Commander.

(b) Coordinate notification of affected City Departments and outside agencies as required.

(c) Policy Manual §408 should be consulted if the Command Staff designates the incident as a Crisis Response Unit operation.

(d) Assess the need for mutual aid and coordinate any request for mutual aid.

### 206.9 EQUIPMENT

The following Incident Command System equipment shall be made available whenever the ICS is implemented:

(a) Incident Command System Manual - All recipients of the Incident Command System manual are responsible for its care and maintenance. The ICS manual is to be utilized whenever the ICS is implemented. Supervisors and Managers shall ensure that a copy of the ICS manual is readily available.

(b) Incident Command System Vests - Vests designating the Incident Commander, Planning/Intelligence Officer-in-charge, Field Operations Officer-in-charge, Logistics Officer-in-charge, Finance Officer-in-charge and Public Information Officers are located in the Watch Commander's office and the evidence van. Additional Incident Commander and Public Information Officer vests are located in the Watch Commander's vehicle and the two Sergeant's vehicles. Incident Command System vests will be immediately distributed and worn by the designated personnel when the ICS is implemented.

### 206.10 TRAINING

Supervisors should receive ICS training. Managers and Command staff should receive mutual aid refresher training in addition to ICS training.

The ICS training may be conducted in-house or by a POST certified trainer.

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# Training

## 208.1 PURPOSE AND SCOPE

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

## 208.2 PHILOSOPHY

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

## 208.3 OBJECTIVES

The objectives of the Training Program are to:

(a) Enhance the level of law enforcement service to the public.

(b) Increase the technical expertise and overall effectiveness of our personnel.

(c) Provide for continued professional development of [department/office] personnel.

(d) Ensure compliance with POST rules and regulations concerning law enforcement training.

## 208.4 TRAINING PLAN

A training plan will be developed and maintained by the Personnel and Training Lieutenant. It is the responsibility of the Personnel and Training Lieutenant to maintain, review, and update the training plan on an annual basis. The plan will address the following areas:

- Legislative Changes
- State Mandated Training
- Critical Issues Training
- Department Policy
- Mentoring and Development

## 208.5 TRAINING NEEDS ASSESSMENT

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

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208.5.1 REQUIRED TRAINING
All sworn employees in the department are required to attend mandatory training. "Mandatory Training" is defined as:

(a) POST mandated training;

(b) Department mandated training;

(c) City of Palo Alto mandated training.

The Personnel and Training Unit will notify all sworn employees of the upcoming mandatory training. Every effort will be made by the employee to attend the training. However, an employee on disability, bereavement leave, extended sick leave, or attending another mandatory training school may be excused. It is the employee's responsibility to contact their supervisor and obtain approval for the absence. The supervisor should notify the Personnel and Training Unit.

## 208.6 TRAINING SAFETY

It shall be the policy of the Palo Alto Police Department to conduct all training in such a manner as to promote an attitude of safety among instructors and students alike. The efforts of all personnel involved in training shall be directed toward ensuring a safe atmosphere within which a maximum training benefit can be realized.

208.6.1 DEFINITIONS
The following material has been made a resource in developing this policy:

(a) POST Guidelines for Student Safety in Certified Courses California commission on Peace Officer Standards and Training 2001;

(b) City of Palo Alto Policy and Procedures Manual, 3-1, Safety Policy, Revised January 2000.

208.6.2 PROCEDURE

(a) **PERSONNEL AND TRAINING RESPONSIBILITIES:**

1. The Personnel and Training Unit shall provide advance notice to prospective trainees of the anticipated physical demands and/or physical performance expectations. Additionally, the Personnel and Training Unit shall provide advance notice if specialized safety equipment will be required;

2. Instructors shall be provided with a copy of the specific safety guideline pertaining to their course of instruction prior to the commencement of their class;

3. Personnel and Training or their designee shall ensure that emergency communications (phone, radio or other means) are accessible at all training sites;

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4. At least one member of the instructional staff, either directly involved in the training event or immediately available at the training site, shall be trained in first aid and CPR;

5. When planning a training event, the Personnel and Training Unit or its designee shall identify which medical facilities and emergency services are available or subject to call in the event of an emergency or injury.

(b) **INSTRUCTIONAL STAFF-TO-STUDENT RATIOS FOR POST CERTIFIED COURSES ONLY:**

1. Factors considered in establishing these ratios included, but were not limited to:

   (a) The intensity or pace of the training experience;

   (b) Student familiarity with the material;

   (c) Characteristics of the training site;

   (d) Injury potential:

   (e) Active versus passive participation.

2. For the purposes of establishing an instructional staff to student ratio, the following personnel titles and description are viewed by the Palo Alto Police Department as exerting functional supervision over students in training:

   (a) Primary/Lead/Principal Instructor;

   (b) Specialty Coordinator;

   (c) Course Coordinators;

   (d) Range Masters;

   (e) Defensive Tactics Instructors;

   (f) Field Training Officers;

   (g) SWAT Team Leaders.

3. The specific ratios are identified in each training subject file, i.e. driver's training would be a maximum of 7 instructors to 18 students.

4. The ratio for any psycho-motors skills training is 1 instructor to 10 students.

5. Assessment of the staff-to-student ratio will be initiated when curriculum changes are proposed or when course structure is otherwise modified.

(c) **INSTRUCTOR RESPONSIBILITIES:** Any defensive tactics or similar training which necessitates the use of firearms shall be taught utilizing Department authorized "red guns", or functional equivalent. Under no circumstances shall training occur using authentic firearms pointed toward any individual. Additionally, all firearms, magazines,

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loaders and ammunition are excluded from the training area. Practice of anticipated live-fire exercises is exempt from using red guns, provided no firearm will be pointed toward any individual.

(a) The primary instructor or designee shall be responsible for conducting safety inspections of all trainees, their equipment and facilities used for training prior to the initiation of each training event;

(b) Instructors should be aware of environmental factors such as weather, air quality, and/or other elements/events and adjust the instruction as necessary;

(c) The primary instructor or designee shall verbally review specific safety rules with students prior to beginning subject instruction;

(d) Specific safety rules shall be incorporated into lesson plans. Copies of safety rules shall be distributed to students as part of the course handouts. Coordinators are responsible for giving these to the Personnel and Training Division;

(e) Instructors shall adhere to the expanded course outline as submitted to POST. Instructors shall also adhere to their lesson plan as approved by Personnel and Training and/or POST;

(f) Instructors shall advise students of their responsibility to report and/or stop unsafe actions during training;

(g) Instructors shall display an attitude of safety and a professional demeanor at all times.

(d) **STUDENT RESPONSIBILITIES:**

(a) Members of the Palo Alto Police Department shall immediately notify the course coordinator, or the Personnel and Training Lieutenant of any known pre-existing medical condition which is likely to be aggravated by, or effect performance during training;

(b) Members of the Palo Alto Police Department shall be required to provide evidence of medical or physical limitations for training if the instructor questions his or her ability to perform safely;

(c) Members of the Palo Alto Police Department shall immediately notify a member of the training staff of any injury sustained during training;

(d) Members of the Palo Alto Police Department are responsible for adhering to all safety requirements of individual courses;

(e) Members of the Palo Alto Police Department will not consume any alcoholic beverages before or during training; or take any medication that may adversely affect responsible decision making;

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(f) Members or officers of allied agencies participating as students in a Palo Alto Police Department sponsored training course will adhere to the standards delineated in this policy.

(e) **RESPONSE TO INJURIES** - In the event of an injury, the following actions shall be taken as necessary:

(a) Render first aid;

(b) Obtain appropriate medical assistance;

(c) Members of the Palo Alto Police Department who sustain an injury which requires treatment by a physician must obtain a medical release before they will be allowed to resume training;

(d) Notify the Personnel and Training Unit immediately;

(e) Investigate and complete an injury report using the appropriate reporting form(s). The Personnel and Training Unit Lieutenant may delegate the investigation when appropriate.

## 208.7 TRAINING PROCEDURES

(a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:

1. Court appearances
2. First choice vacation
3. Sick leave
4. Physical limitations preventing the employee’s participation.
5. Emergency situations

(b) When an employee is unable to attend mandatory training, that employee shall:

1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.
2. Document his/her absence in a memorandum to his/her supervisor.
3. Make arrangements through his/her supervisor and the Personnel and Training Lieutenant to attend the required training on an alternate date.

## 208.8 SIMUNITIONS TRAINING POLICY

The Palo Alto Police Department will utilize the FX Marking Cartridge manufactured by Simunition for scenario training. The training will provide realistic situations and prove beneficial in tactical training methods and weapons skills. The training is designed to either train or test officer's

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knowledge of department policy/procedure, reaction to threat/danger, or ability to be safe and survive confrontations.

208.8.1 DEFINITION
FX Marking Cartridge is a non-lethal live training ammunition available in a variety of colors. Calibers of 9mm and .38 are available. The round has a reduced noise signature so that hearing protection is not needed. It has a reduced energy design so that it can be used on live targets. It cleans up easily. It has sufficient recoil to provide realism. It's effective accuracy is 7-10 yards in handguns, and 20 meters in longer guns. The design tactical accuracy is 6 inches at 25 feet.

208.8.2 SAFETY MEASURES/GUIDELINES
Safety is paramount in scenario training. Proper and sound safety practices are mandatory when the FX Marking Cartridge is utilized. The following safety measures/guidelines will be followed:

(a) The use of protective equipment is mandatory. It shall include full-face mask, throat protection, and groin protection. Optional equipment, but highly recommended are gloves, hard athletic style cup, and clothing to cover the skin (Eye protection should be tested and able to withstand velocities in excess of 400 f.p.s.).

(b) Students should wear the clothing and equipment that they normally wear during their duty assignments. Additionally, the training artificialities such as the groin, face, eye, and throat protection mentioned above should be worn on top of normal duty clothing and equipment.

Role players' safety is of extreme importance and they should be as protected from blunt trauma and from FX projectile impact as possible. A role player should not be injured due to a lack of or improper use of protective clothing and equipment.

## 208.9 SCENARIO DEVELOPMENT/TRAINING
Scenario based training involves placing students in situations that simulate actual conditions normally found in their working environment. The objective of the scenario should either be to teach a response to a situation or test a response to a situation.

(a) Each Scenario developed will have the following mandatory components addressed:

1. Personnel;
2. Training Location;
3. Equipment;
4. Training Objective;
5. Briefings.

(b) Minimum Recommended Personnel - The following personnel are deemed as the minimum requirement for all scenario training:

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1. **Training Safety Officer (TSO)** - one person whose sole task is to insure the safety of all scenario personnel;
2. **Training Officer in Charge (OIC)** - the person who is in charge of establishing (setting up) and running the scenarios. There may be assistant OIC's if there are several scenario's running;
3. **Role Player(s) Student Trainee** - the student trainee should arrive at the training scene with a positive attitude. He/she is also responsible for the training environment safety;
4. Other personnel could include additional training staff personnel, depending on the complexity of the scenario training. A Camera Operator, medical personnel, range guards (control entry and exit of the training area), administrators and legal representatives;
5. VIP's that are present to observe must follow all safety rules; including the rules governing protective gear. VIP's are not allowed to interfere with the training environment;
6. In general, photographs and video recordings of the training are prohibited. However, the Personnel and Training Unit may elect to video- tape the training for training purposes only.

(c) **Training Sites** - All training sites must be comprised of three definitive zones. They are as follows:

1. **Unsafe Zone**: this zone contains all live lethal weapons, rounds, knives etc.;
2. **Semi Safe Zone**: this zone is free from impact of the safe zone and separated by a physical barrier from the safe zone. This zone houses all briefings, gear storage, FX marking cartridge storage, etc.;
3. **Safe Zone**: This is the zone that the actual training takes place. No one enters this zone w/ out a safety check.

(d) **EQUIPMENT** - The OIC is responsible for ensuring all of the necessary equipment is present for the scenario training. This equipment includes but is not limited to:

1. Safety equipment;
2. Training aids;
3. Administrative items; and
4. Scenario Information Cards. For a complete list of equipment needs, consult a Department Simunition Instructor.

(e) **TRAINING OBJECTIVE**

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1. **The Primary Training Objective (PTO)** is the concise statement, which defines the intent and the overall methodology of the training session. It should state whether or not the session is testing or training. If it is testing, the student should have been taught the proper response previously. The primary training objective should relate directly to the student's line of work.

2. **The Student Training Objectives (STO),** are the teaching/learning points to be covered in the scenario. There may be many or there may just be one. They must be identified to the student prior to the training. They must be prioritized to allow for proper time management and they must be included in the instructor information cards to provide consistency and continuity in the training program.

(f) **BRIEFINGS** - There are essentially three different types of briefings that occur before, during, and after the scenario training. They are as follows:

1. **Safety Briefing** - Prior to the beginning of the training scenario, the TSO is required to discuss safety issues. This includes overall safety issues, a medical plan, and general firearm safety issues. All participants should be present for this briefing.

2. **Evolution Briefing** - The OIC provides the students with an evolution briefing in order to explain to the students what to expect. Evolution briefings should provide planning information which facilitates the efficiency and quality of the training session, however, the do not cover specific information about the scenario.

3. **DEBRIEFING** - A debriefing should be conducted right away, not at the end of the day, unless the scenario is video taped. The student, role player, OIC, TSO, and camera operator should be included. Regardless of the debriefing method, staff should always be close enough to the students to physically stop a student from becoming over zealous, hurting themselves, or from brutalizing a role player during training. Staff should not change the course of the training scenario by being close to the action.

## 208.10 POLICY

The [Department/Office] shall administer a training program that will meet the standards of federal, state, local, and POST training requirements. It is a priority of this [department/office] to provide continuing education and training for the professional growth and development of its members.

## 208.11 PERSONNEL AND TRAINING LIEUTENANT

The Chief of Police shall designate a Personnel and Training Lieutenant who is responsible for developing, reviewing, updating, and maintaining the [department/office] training plan so that required training is completed. The Personnel and Training Lieutenant should review the training plan annually.

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### 208.11.1 TRAINING RESTRICTION

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

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# Email/Personal Mail/Telephone Usage/Voicemail

## 212.1 PURPOSE AND SCOPE

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

## 212.2 E-MAIL RIGHT OF PRIVACY

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

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

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

## 212.3 PROHIBITED USE OF E-MAIL

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

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

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

## 212.4 MANAGEMENT OF E-MAIL

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

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Messages should be purged manually by the user at least once per week. All messages in excess of one month will be deleted at regular intervals from the server computer.

## 212.5 TELEPHONE USAGE

The Palo Alto Police Department is not expected to absorb the costs associated with personal telephone calls or the receiving and distribution of personal mail. However, it is understood that employees may need to make personal calls on occasions while on-duty. If City telephones are used for personal reasons, the City shall be reimbursed for the cost of the personal call. However, the prior described situation is an exception; the policy of this Department is that all telephone calls and all correspondence directed to the Department will be of a business nature.

### 212.5.1 PROCEDURE

When it is necessary to use the City telephone system for personal calls, the user shall reimburse the City according to the following procedure:

(a) The phone bill will be distributed to each division monthly. The division captain/ coordinator will circulate the phone bill to each employee;

(b) Employees shall identify their personal phone calls and complete a Telephone Use Reimbursement form listing the name, the number from which the call was made and the cost. Telephone Use Reimbursement forms are located with the other forms in the Report Writing Room;

(c) The total cost of personal phone calls should be paid by check, unless the amount is under one dollar ($1.00), written to the City of Palo Alto. Those bills under one-dollar ($1.00), accompanied with a Telephone Use Reimbursement Form, should be paid in-person at the Revenue Collection counter;

(d) The Telephone Use Reimbursement form, together with a check, should be routed to the Division Captain/Coordinator, who will forward it to revenue collections.

## 212.6 CITY CELLULAR TELEPHONES

The Palo Alto Police Department provides cellular telephones or personal digital assistants (PDA's) to personnel in specialty assignments or positions which necessitate the need for this type of equipment to enhance their effectiveness and efficiency. The Department has estabblished rate plans for each individual based on the "business need" for the respective assignment or position.

### 212.6.1 PERSONAL CALLS ON CITY CELLULAR PHONES

It is understood employees may need to make personal calls on occasions while on-duty. However, the use of City issued telephones for non-business related calls that bring about billing overages outside of the rate plan will result in the employee having to reimburse the City for personal calls that may have contributed to the overage.

Employees who need to make personal calls on their issued cellular phones are required to obtain their supervisor's approval.

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### 212.6.2 HANDS FREE DEVICES

California Law prohibits the use of cellular telephones by drivers unless the driver is using a hands-free device.

Although emergency personnel are exempt from the new "hands-free law" requiring the use of "hands-free" devices for drivers using a cellular phone or PDA, the Department intends to comply with the new law and requires all personnel comply with the following:

(a) Hands-free devices shall be used any time a personal or City issued cellular phone/ PDA is used while driving a City vehicle.

(b) Use of a hands-free device, while encouraged, is not required by an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, in the course and scope of his or her duties. (California Vehicle Code Section 23123)

(c) The use of over-the-ear hands-free devices will be prohibited when driving department vehicles. Using a hands-free device while driving does not eliminate the distraction that comes with cellular telephones. Talking on the phone, dialing and hanging up the phone create a distraction while driving. Whenever possible, department personnel should restrict the use to matters of an urgent nature, exercise caution when using cellular telephones while driving and where practical, stop the vehicle at an appropriate location to complete the call.

### 212.6.3 OFFICIAL USE

The use of personal communication devices may be appropriate in the following situations:

(a) Barricaded suspects

(b) Hostage situations

(c) Mobile Command Post

(d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.

(e) Major political/community events

(f) Investigative stakeouts where regular phone usage is not practical

(g) Emergency contact with outside agency or outside agency field unit

(h) When immediate communication is needed and the use of the radio is not appropriate and other means are not readily available.

(i) Calls that must be made immediately and where the use of a hard line telephone would be untimely or not suitable for the situation.

### 212.6.4 PROCEDURE

To ensure compliance with established rate plans and ensure personal use of City issued equipment does not create additional cost to the City, the following procedure shall be adhered to:

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(a) The monthly phone bill will be distributed to each division coordinator. The Coordinator is responsible for identifying any overages or discrepancies.

(b) Employees required to reimburse the City for personal calls resulting from a rate plan overage shall complete a Telephone Use Reimbursement form listing the name, number from which the call was made, and the cost. The Telephone Use Reimbursement forms are located with the other forms in the Report Writing Room.

(c) The total cost of personal phone calls should be paid by check written to the City of Palo Alto, unless the amount is under one dollar ($1.00). Those bills under one dollar ($1.00), accompanied with a Telephone Reimbursement form, should be paid in person at the Revenue Collection counter.

(d) The Telephone Reimbursement form, together with a check, should be routed to the Division Coordinator, who will forward it to Revenue Collections.

#### 212.6.5 INDIVIDUALLY OWNED CELLULAR PHONES

Employees may carry their own cell phone while on duty subject to the following conditions:

(a) Carrying an individually-owned cell phone is optional.

(b) The device shall be purchased, used and maintained at the employees expense.

(c) Damage or loss of personal device will be the responsibility of the employee.

## 212.7 PERSONAL MAIL

Receiving personal mail at the Police Department address is generally prohibited.

## 212.8 EMPLOYEE MAIL BOXES

Employees are required to visibly check their mailbox on each workday. Employee mailboxes should be kept neat and orderly. Employees should purge old documents in order to maintain room for new material.

## 212.9 VOICE MAIL

#### 212.9.1 PURPOSE AND SCOPE

The Voice Mail policy describes and sets the standards for the way members of the Police Department use voice mail technology. In using the voice mail system, the Police Department will place a strong emphasis on the needs of the public and the public's ability to reach police employees as quickly as possible. Voice mail technology is intended to remove, rather than erect barriers. Consequently, the Police Department's voice mail system is designed to be used in a manner that will enable callers to communicate with a police employee if they so desire.

#### 212.9.2 SYSTEM WIDE STANDARDS

The voice mail system will be available for use 24 hours a day to accommodate the public for key police services and allow employees to direct calls to voice mail during non-business hours.

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(a) Emergency service telephone numbers, such as the 911 lines or 329-2413, shall not be directed to the voice mail system.

(b) In order to promote quality customer service, complaints from the public regarding the voice mail system will be handled in accordance with Policy Manual § 1020 "Personnel Complaint Procedures."

(c) Calls answered by voice mail during business hours shall give the caller the opportunity to choose between leaving a message or talking with a staff person.

(d) Broadcast messages whether City or Police Department wide shall require Department head approval.

(e) The City Manager will have the final decision as to who may have a voice mail box.

### 212.9.3 DEPARTMENTAL STANDARDS

(a) Information about special and ongoing police events may be made available to the public via the voice mail system, especially when a high volume of telephone calls is anticipated.

(b) Each division will have at least one number that is always answered by a person during the division's normal business hours. These numbers shall not be forwarded to an automated attendant during these hours. During non-business hours, it is permissible to have a voice mail message handled by the automated attendant features. Divisions that cannot assure constant staffing of the telephone number (due to absences, work-related activities, etc.) must make arrangements with other divisions to provide adequate coverage when Departmental clerical assistants are absent or unavailable.

(c) The voice mail system will require daily supervision on the part of each division.

### 212.9.4 INDIVIDUAL STANDARDS

(a) Upon the approval of the Division Captain/Coordinator, telephone numbers assigned to an individual employee may be directed to voice mail when that person is not able to answer the telephone.

(b) Individuals who are assigned a mail box will be responsible for checking their mail box on work days for messages. Messages left by callers shall be answered promptly. At a minimum, individuals shall check their voice mail box at the beginning and end of each workday.

(c) Voice mail box owners shall keep their outgoing messages professional, timely, and current. Greetings shall not include nicknames, jargon, background noises or other inappropriate messages. During periods of extended absences, box owners should arrange to have mail box coverage or an appropriate announcement directing the caller elsewhere.

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### 212.9.5 PUBLIC TELEPHONE DIRECTORY LISTINGS

The telephone number published as the Police Department's main public information line (329-2406 or 2407), which are answered by the front desk personnel, shall always be answered by a staff member during normal business hours. The telephone numbers for specific informational lines will be published to allow callers direct access to the voice mail system for frequently requested information.

The Government section of the public telephone directory shall indicate which telephone numbers will be answered by the voice mail system.

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# Administrative Communications

### 214.1 PURPOSE AND SCOPE

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

### 214.2 PERSONNEL ORDER

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

### 214.3 CORRESPONDENCE

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

### 214.4 SURVEYS

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

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# Staffing Levels

### 216.1 PURPOSE AND SCOPE

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

### 216.2 PATROL MINIMUM STAFFING LEVELS

The following hours and minimum staffing levels will be observed on both sides of the Patrol Division. During team overlaps, the combined staffing levels of the teams will serve to meet minimum staffing levels.

0700-2400 hours

- 1 Watch Commander (Lieutenant/Sergeant)
- 1 Supervisor (Sergeant/Agent)
- 6 Officers/Agents

0001-0300 hours

- 1 Watch Commander (Lieutenant/Sergeant)
- 1 Supervisor (Sergeant/Agent)
- 5 Officers/Agents

0300 - 0700 hours

- 1 Supervisor (Sergeant)
- 5 Officers/Agents

#### 216.2.1 SUPERVISION DEPLOYMENTS

In order to accommodate training and other unforeseen circumstances and at the discretion of management, employees classified as "Agent" may be used as Watch Commander's.

### 216.3 MINIMUM STAFFING LEVELS-COMMUNICATIONS

The following minimum staffing levels will be maintained for Communications.

0700-0200 hours

- 1 Chief Dispatcher
- 3 Police Service Dispatchers

From 0200-0700 hours

- 1 Chief Dispatcher
- 2 Police Service Dispatchers

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# License to Carry a Firearm

## 218.1 PURPOSE AND SCOPE

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

### 218.1.1 APPLICATION OF POLICY

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

## 218.2 POLICY

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

## 218.3 QUALIFIED APPLICANTS

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

(a) Be deemed not to be a disqualified person as provided in Penal Code § 26202.

(b) Be deemed not to be prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm (Penal Code § 26185; Penal Code § 26195).

(c) Be a resident of the City of Palo Alto or meet the non-residential jurisdictional requirements (Penal Code § 26150; Penal Code § 26155)

1. Non-resident applicants may be eligible for a license if they are members of the California Rifle & Pistol Association, Inc., Gun Owners of America, Inc., Gun Owners of California, Inc., the Second Amendment Foundation, or the Firearms Policy Coalition and are not otherwise prohibited from possessing firearms under federal or California law. Proof of membership is required.

(d) Be at least 21 years of age, and present clear evidence of identity and age as defined in Penal Code § 16400 (Penal Code § 26150; Penal Code § 26155).

(e) Fully complete the California Department of Justice (DOJ) application (Penal Code § 26175).

(f) Submit fingerprints and a complete criminal background check (Penal Code § 26185).

(g) Pay all associated application fees (Penal Code § 26190).

(h) Be the recorded owner of the firearm, with the California DOJ, for which the license will be issued, as determined by the Palo Alto Police Department (Penal Code § 26162).

(i) Be free from any psychological conditions that might make the applicant unsuitable for carrying a firearm (Penal Code § 26190).

(j) Complete required training described in Penal Code § 26165.

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218.3.1 NON-RESIDENT APPLICANTS
Non-resident applicants are required to meet the resident criteria described in the Qualified Applicants section of this policy, where applicable, as well as the requirements in Penal Code § 26150(b) and Penal Code §26155(b).

218.3.2 APPLICANT DISQUALIFICATION
The [Department/Office] shall not issue a license when (Penal Code § 26195):

(a) The applicant fails to comply with all reporting requirements concerning any restraining orders, arrests, convictions, or charges as specified in Penal Code § 26202.

(b) The applicant knowingly provided false, inaccurate, or incomplete information in connection with any application for a license, license renewal, or license amendment pursuant to Penal Code § 26175(e).

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

218.4.1 PHASE ONE (TO BE COMPLETED BY ALL APPLICANTS)

(a) Any individual applying for a license to carry a firearm shall first fully complete a California DOJ application to be signed under penalty of perjury. Any applicant who provides false information or statements on the application will be removed from further consideration and may be prosecuted for a criminal offense (Penal Code § 26180).

    1. If an incomplete application package is received, the Chief of Police or the authorized designee may do any of the following:

        (a) Require the applicant to complete the package before any further processing.

        (b) Advance the incomplete package to phase two for conditional processing pending completion of all mandatory conditions.

        (c) Issue a denial if the materials submitted at the time demonstrate that the applicant would not qualify for a license to carry a firearm even if the package was completed (e.g., disqualifying criminal conviction).

(b) Applicant fees shall be submitted and processed according to [department/office]-established procedures and Penal Code § 26190.

    1. Additional fees may be required for fingerprinting, training, or psychological testing, in addition to the application fee.

    2. Full payment of the remainder of the application fee will be required upon issuance of a license.

    3. Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).

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(c) Additional documents may be requested of the applicant as required to complete the application process (e.g., photograph).

(d) The applicant shall submit proof of ownership or registration of each firearm to be licensed.

Within 90 days of receiving the completed application for a new license, the [Department/Office] shall give written notice to the applicant of the [Department/Office]'s initial determination, based on its preliminary investigation, whether or not the applicant is a disqualified person. This shall include a final determination on whether the applicant is an unlawful user of or addicted to any controlled substance described in 18 USC 922 (g)(3) (Penal Code § 26202).

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

#### 218.4.2 PHASE TWO

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

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

(b) The Chief of Police may, based upon criteria established by the Chief of Police, require that the applicant be referred to an authorized psychologist used by the [Department/Office] for psychological testing. The cost of such psychological testing shall be paid by the applicant but shall not exceed the reasonable costs to the [Department/Office]. The Chief of Police may allow non-resident applicants to complete the psychological assessment virtually or at an approved location in the applicant's state of residence (Penal Code § 26190).

(c) The applicant shall complete a course of training approved by the [Department/Office], which complies with Penal Code § 26165.

(d) The applicant shall submit any firearm to be considered for a license to the Rangemaster or other [department/office] authorized gunsmith, at no cost to the applicant, for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).

(e) The applicant shall successfully complete a firearms safety and proficiency examination with the firearm to be licensed, to be administered by the [department/office] Rangemaster, or provide proof of successful completion of another [department/office]-approved firearms safety and proficiency examination, including completion of all releases and other forms. The cost of any outside inspection/examination shall be the responsibility of the applicant.

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

### 218.5 ISSUED FIREARMS PERMITS

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

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(a) The license will be subject to any and all reasonable restrictions or conditions the Chief of Police has deemed warranted, including restrictions as to the time, place, manner, and circumstances under which a person may carry the firearm (Penal Code § 26200(b)).

1. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code § 26200(c)).
2. The licensee will be required to sign a Restrictions and Conditions Agreement. Any violation of any of the restrictions and conditions may result in the immediate revocation of the license.

(b) The license shall clearly identify the licensee, bear a photograph and fingerprints of the licensee with the expiration date, type of firearm, restrictions, and other pertinent information as described by Penal Code § 26175. The license may be laminated (Penal Code § 26175).

(c) The license will be valid for a period not to exceed two years from the date of issuance (Penal Code § 26220).

1. A license issued to a state or federal magistrate, commissioner, or judge will be valid for a period not to exceed three years.
2. A license issued to any reserve peace officer as defined in Penal Code § 830.6(a) or (b), or a custodial officer employed by the Sheriff as provided in Penal Code § 831.5 will be valid for a period not to exceed four years, except that such license shall be invalid upon the individual's conclusion of service as a reserve officer.

(d) If the licensee's place of residence was the basis for issuance of a license and the licensee moves out of the county of issuance, the license shall expire 90 days after the licensee has moved (Penal Code § 26210).

(e) The licensee shall notify this [department/office] in writing within 10 days of any change of place of residency. Within 10 days of receiving such notice, the [Department/Office] shall notify the California DOJ (Penal Code § 26210).

### 218.5.1 LICENSE RESTRICTIONS

(a) The Chief of Police may place special restrictions limiting time, place, manner and circumstances under which any license shall be valid. In general, these restrictions will prohibit the licensee from:

1. Consuming any alcoholic beverage while armed.
2. Falsely representing him/herself as a peace officer.
3. Unjustified or unreasonable displaying of a firearm.
4. Committing any crime.
5. Being under the influence of any medication or drug while armed.
6. Interfering with any law enforcement officer’s duties.

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7. Refusing to display his/her license or firearm for inspection upon demand of any peace officer.
8. Loading the permitted firearm with illegal ammunition.

(b) The Chief of Police reserves the right to inspect any license or licensed firearm at any time.

(c) The alteration of any previously approved firearm including, but not limited to adjusting the trigger pull, adding laser sights or modifications shall void any license and serve as grounds for revocation.

### 218.5.2 AMENDMENTS TO LICENSES

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

(a) Add or delete authority to carry a firearm listed on the license.

(b) Change restrictions or conditions previously placed on the license.

(c) Change the address or other personal information of the licensee (Penal Code § 26210).

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

### 218.5.3 REVOCATION OF LICENSES

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

(a) The licensee is prohibited by state or federal law from owning or purchasing a firearm.

(b) The licensee has become a disqualified person and cannot receive such a license in accordance with the standards set forth in Penal Code § 26202.

(c) The licensee has breached any of the conditions or restrictions described in Penal Code § 26200.

(d) Any information provided by a licensee in connection with an application for a new license or an application to amend a license was knowingly inaccurate or incomplete.

(e) If the license is one to carry "loaded and exposed," the license shall be revoked immediately upon a change of the licensee's place of residence to another county (Penal Code § 26210).

(f) The licensee fails to notify the issuing [department/office] of a restraining order, arrest, charge, or conviction of a crime in Penal Code § 26202.

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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/Office] will immediately notify the licensee in writing and the California DOJ (Penal Code § 26225).

### 218.5.4 LICENSE RENEWAL

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

(a) Verifying all information submitted in the original application under penalty of perjury.

(b) Completing a training course pursuant to Penal Code § 26165.

(c) Submitting any firearm to be considered for a license renewal to the Rangemaster for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).

(d) Paying the applicable renewal application fee.

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

If the determination is that the applicant is not a disqualified person, the notice shall inform the applicant to proceed with the training requirements as specified in Penal Code § 26165. The [Department/Office] shall then submit the renewal notification to the California DOJ as provided in Penal Code § 26185.

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

The [Department/Office] shall not issue a renewal license unless confirmation has been received from the California DOJ that the applicant is eligible to possess, receive, own, or purchase a firearm (Penal Code § 26185).

## 218.6 [DEPARTMENT/OFFICE] REPORTING AND RECORDS

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

(a) The denial of a license

(b) The denial of an amendment to a license

(c) The issuance of a license

(d) The amendment of a license

(e) The revocation of a license

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

## 218.7 CONFIDENTIAL RECORDS

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

## 218.8 LIMITED BUSINESS LICENSE TO CARRY A CONCEALED FIREARM

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

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

(a) The applicant physically spends a substantial period of working hours in the applicant's principal place of employment or business within the City of Palo Alto (Penal Code § 26150).

(b) Such a license will be valid for a period not to exceed 90 days from the date of issuance (Penal Code § 26220).

(c) The applicant shall provide a copy of the license to the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

(d) Any application for renewal or reissuance of such a license may be granted only upon concurrence of the original issuing authority and the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

## 218.9 WRITTEN NOTICE FOR DENIAL OF LICENSE

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

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

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

### 218.9.1 ADDITIONAL REQUIREMENTS

If an application for a new license, renewal of a license, or revocation is denied based on a determination that the person is a disqualified person as provided by Penal Code § 26202, the Chief of Police or the authorized designee shall provide the person with the notice of determination

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as provided by Penal Code § 26202(d), Penal Code § 26205, or Penal Code § 26195(b)(3). The notice shall state the reason why the determination was made and inform the applicant that they may request a hearing from a court. The [Department/Office] shall also provide the most recent California DOJ hearing request form to the applicant (Penal Code § 26206).

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

#### 218.9.2 ADDITIONAL REPORTING REQUIREMENTS

The [Department/Office] shall submit the required prescribed information in Penal Code § 26202(f) to the National Instant Criminal Background Check System Index within 5 days upon determination that an applicant is a disqualified person due to being an unlawful user of, or addicted to, any controlled substance (Penal Code § 26202(f)).

### 218.10 POLICY AVAILABILITY

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

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# Retiree Concealed Firearms

## 220.1 PURPOSE AND SCOPE

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

## 220.2 POLICY

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

## 220.3 LEOSA

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

(a) Separated from service in good standing from this Department as an officer.

(b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this Department.

(c) Has not been disqualified for reasons related to mental health.

(d) Has not entered into an agreement with this Department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.

(e) Is not prohibited by federal law from receiving or possessing a firearm.

### 220.3.1 LEOSA IDENTIFICATION CARD FORMAT

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

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

### 220.3.2 AUTHORIZATION

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

(a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:

1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

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2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.

(b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(c) Not prohibited by federal law from receiving a firearm.

(d) Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

## 220.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

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

(a) For the purpose of this policy, honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement. It shall not include any officer who retires in lieu of termination.

(b) No CCW Approved endorsement shall be issued to any officer retiring because of a psychological disability (Penal Code § 26305).

### 220.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT

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

(a) A photograph of the retiree.

(b) The retiree's name and date of birth.

(c) The date of retirement.

(d) The name and address of this Department.

(e) A stamped CCW Approved endorsement along with the date by which the endorsement must be renewed (not more than one year). If a CCW endorsement has been denied or revoked, the identification card shall be stamped "No CCW Privilege."

### 220.4.2 QUALIFIED RETIRED RESERVES

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

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## 220.5 FORMER OFFICER RESPONSIBILITIES

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

### 220.5.1 RESPONSIBILITIES UNDER LEOSA

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

(a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.

(b) Remain subject to all applicable Department policies and federal, state and local laws.

(c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.

(d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

### 220.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

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

(a) Qualify annually with the authorized firearm at a course approved by this [department/office] at the retired officer's expense.

(b) Remain subject to all applicable [department/office] policies and federal, state, and local laws.

(c) Not engage in conduct that compromises public safety.

(d) Only be authorized to carry a concealed firearm inspected and approved by the [Department/Office].

(e) Undergo a fingerprint-based state and national criminal history background check when required by the [Department/Office] (Penal Code § 26330).

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

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

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

A CCW endorsement for any officer retired from this Department may be denied or revoked only upon a showing of good cause. The CCW endorsement may be immediately and temporarily

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revoked by the Watch Commander when the conduct of a retired peace officer compromises public safety (Penal Code § 25470).

(a) In the event that a CCW endorsement is initially denied, the retired officer shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.

(b) Prior to revocation of any CCW endorsement, the Department shall provide the affected retiree with written notice of a hearing by either personal service or first class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).

1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.

(c) A hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the Department, one selected by the retiree or his/her employee organization, and one selected jointly (Penal Code § 26320).

(a) The decision of such hearing board shall be binding on the Department and the retiree.

(b) Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege."

(d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Watch Commander as soon as practicable. The Watch Commander should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.

(a) Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).

(b) The Watch Commander should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Police.

(c) The personal and written notification should be as follows:

(a) The retiree's CCW endorsement is immediately and temporarily suspended.

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(b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.

(c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.

(d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

## 220.8 FIREARM QUALIFICATIONS

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

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# Gun Permit Policy

## 222.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear guidelines and criteria for issuing permits to discharge a firearm within the city limits of Palo Alto. The policy ensures that only qualified applicants, who meet specific conditions, are granted such permits. This helps maintain public safety and prevents misuse of firearms. By adhering to this policy, the Palo Alto Police Department aims to balance the need to control and mitigate threats caused by animals, birds, or rodents, with the importance of public safety and responsible firearm use.

## 222.2 POLICY

The Palo Alto Police Department will fairly and impartially consider all applications to obtain a permit to discharge a firearm pursuant to paragraph 9.08.020 (a)(6) of the Palo Alto Municipal Code in accordance with applicable law and this policy.

## 222.3 QUALIFICATIONS AND REQUIREMENTS

To qualify for a permit, an applicant must show all of the following:

1. The applicant is not a person prohibited from possessing a firearm under State or Federal law , as determined by the California Department of Justice Bureau of Firearms;

2. Possession of and compliance with the requirements of a valid hunting license duly issued and approved by the California Department of Fish and Wildlife pursuant to California Fish and Game Code;

3. Demonstrable damage to the applicant's property or threat to the safety of any person on the applicant's property as a result of one or more animals, birds or rodents;

4. Non-lethal or less-lethal measures have been taken to prevent property damage or threat to safety caused by one or more animals, birds or rodents prior to requesting the issuance of a permit, or a determination by the chief of police that non-lethal or less lethal measures are not feasible; and

5. The applicant has identified, with reasonable certainty, the specific animal, bird or rodent causing the damage to the applicant's property or threat to the safety of any person on the applicant's property;

The Palo Alto Police Department will give written notice to the applicant of the Chief of Police's determination, based on the applicant's submission, whether or not the applicant has made a satisfactory showing in accordance with this policy.

## 222.4 PERMIT ISSUANCE

If the determination is that the applicant has made a satisfactory showing, the notice shall inform the applicant of the conditions of the permit to discharge a firearm pursuant to PAMC 9.08.020 (a)(6).

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1. The Chief of Police may place special conditions limiting time, place, manner, and circumstances under which any permit shall be valid. At minimum, the permit will include the following conditions: Notice of the intent to discharge a firearm, and the location within the city limits, must be provided to the Palo Alto Police Department at least one hour before discharge of the firearm; and

2. The discharge of the firearm must occur while the animal, bird or rodent is contained in a trap.

### 222.5 DENIAL, OR REVOCATION OF A PERMIT

A permit may be denied based on an applicant's failure to meet the qualifications and requirements set forth herein, and may be revoked due to misuse or if a permittee no longer meets the qualifications and requirements set forth herein. In the event that a permit is denied, the applicant may request a second review by the Chief of Police. The decision of the Chief of Police is final.

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# Chapter 3 - General Operations

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# Use of Force

## 300.1 PURPOSE AND SCOPE

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

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

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

### 300.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

## 300.2 POLICY

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

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

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

### 300.2.1 DUTY TO INTERCEDE

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

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

### 300.2.2 FAIR AND UNBIASED USE OF FORCE

Officers are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)). See Section 402, Racial or Bias-Based Profiling for additional guidance.

### 300.2.3 DUTY TO REPORT EXCESSIVE FORCE

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

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

### 300.2.4 FAILURE TO INTERCEDE

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

## 300.3 USE OF FORCE

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

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

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to

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

Not withstanding any other section of this policy, it is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, techniques or methods provided or taught by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device, technique or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

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

### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

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

Where feasible, an officer shall, prior to the use of force, make reasonable efforts to identify him/herself as a peace officer, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

(a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).

(b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).

(c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).

(d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).

(e) The effects of suspected drugs or alcohol.

(f) The individual's apparent mental state or capacity (Penal Code § 835a).

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(g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).

(h) Proximity of weapons or dangerous improvised devices.

(i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.

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

(k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.

(l) Training and experience of the officer.

(m) Potential for injury to officers, suspects, bystanders, and others.

(n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.

(o) The risk and reasonably foreseeable consequences of escape.

(p) The apparent need for immediate control of the subject or a prompt resolution of the situation.

(q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.

(r) Prior contacts with the subject or awareness of any propensity for violence.

(s) Any other exigent circumstances.

### 300.3.3 PAIN COMPLIANCE TECHNIQUES

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

(a) The degree to which the application of the technique may be controlled given the level of resistance.

(b) Whether the person can comply with the direction or orders of the officer.

(c) Whether the person has been given sufficient opportunity to comply.

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

### 300.3.4 CAROTID CONTROL HOLD

The use of the carotid restraint, or any technique (e.g. "chokeholds," "strangleholds," lateral vascular neck restraints, chest compressions, etc.) deliberately applied for the purpose of restricting blood flow or air flow to the head or neck, is not authorized.

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### 300.3.5 ALTERNATIVE TACTICS - DE-ESCALATION

When reasonable and feasible, officers shall evaluate the totality of circumstances presented at the time in each situation and, when reasonable and feasible, shall determine and utilize reasonably available de-escalation techniques, crisis intervention tactics, and other alternatives to force, if any, that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)).

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

Such alternatives may include:

(a) Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention;

(b) Attempting to isolate and contain the subject;

(c) Creating time and distance from the subject by establishing a reactionary gap and utilizing cover to avoid creating an immediate threat that may require the use of force;

(d) Requesting additional resources, such as Crisis Intervention Team (CIT) trained officers, Crisis/Hostage Negotiation Team, or a Kinetic Energy Weapon;

(e) Attempting to establish rapport and engage in communication with the subject;

(f) Identify resources available for help, assistance, and/or treatment in lieu of threats of penalties, or criminal prosecution;

(g) Verbal volume or non-verbal communication, including posturing, silence and delayed response;

(h) Tactically re-positioning to maintain the reactionary gap, protect the public, and preserve officer safety;

(i) Summoning additional resources that are able to respond in a reasonably timely manner; and

(j) Taking as much time as reasonably necessary to resolve the incident, without having to use force, if feasible.

A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. When feasible, officers should attempt to understand and consider the possible reasons why a subject may be noncompliant. This may not make the subject any less dangerous, but understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety.

### 300.3.6 ADDITIONAL RESTRICTIONS

Terms such as "positional asphyxia," "restraint asphyxia," and "excited delirium" continue to remain the subject of debate among experts and medical professionals, are not universally recognized medical conditions, and frequently involve other collateral or controlling factors such

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as narcotics or alcohol influence or pre-existing medical conditions. While it is impractical to restrict an officer's use of reasonable control methods when attempting to restrain a combative individual, officers are not authorized to use any restraint or transportation method which might unreasonably impair an individual's breathing or respiratory capacity for a period beyond the point when the individual has been adequately and safely controlled. Once the individual is safely secured, officers should promptly check and continuously monitor the individual's condition for signs of medical distress (Government Code § 7286.5).

### 300.4 FORCE OPTIONS

The following chart illustrates how a suspect's resistance/actions may correlate to the force applied by an officer; it is offered as general guidance to officers for consideration and is not intended to be exhaustive. It should be considered as part of and in conjunction with the entire policy manual. Other, more specific guidance can be found elsewhere.

Officers are not required to use these force options based on a continuum.

It should be noted that the suspect's actions (as described below) are those perceived by a reasonable officer taking into account the totality of the circumstances. It is also recognized that a suspect's actions can change rapidly and without warning.

Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Ultimately, despite what may appear in any chart, officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose, consistent with Graham v. Connor and CA Penal Code 835a.

| SUBJECT ACTIONS | DESCRIPTION | RESPONSIVE FORCE OPTION EXAMPLES |
|---|---|---|
| Compliance | Subject offers no resistance | • Mere professional appearance<br>• Nonverbal actions<br>• Verbal requests and commands<br>• Handcuffing and control holds |

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| | | |
|---|---|---|
| Passive non-compliance | Does not respond to verbal commands but also offers no physical form of resistance | • Officer's strength to take physical control, including lifting/ carrying<br>• Pain compliance control holds, takedowns and techniques to direct movement or immobilize |
| Active resistance | Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running or walking away, verbally, or physically signaling an intention to avoid or prevent being taken into or retained in custody. | • Use of personal body weapons to gain advantage over the subject<br>• Pain compliance control holds, takedowns and techniques to direct movement or immobilize a subject |
| Assaultive | Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention to assault the officer or another person | • Use of device and/ or techniques to ultimately gain control of the situation<br>• Use of personal body weapons or other available weapon to gain advantage over the subject |
| Life-threatening | Any action likely to result in serious bodily injury or death of the officer or another person | • Utilizing available weapons or actions in defense of self and others to stop the threat |

## 300.5 REPORTING THE USE OF FORCE

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

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specified in Department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

### 300.5.1 NOTIFICATION TO SUPERVISORS

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

(a) The application caused a visible injury.

(b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.

(c) The individual subjected to the force complained of injury or continuing pain.

(d) The individual indicates intent to pursue litigation.

(e) Any application of a conducted energy device or control device.

(f) Any application of a restraint device other than handcuffs, shackles, or belly chains.

(g) The individual subjected to the force was rendered unconscious.

(h) An individual was struck or kicked.

(i) An individual alleges unreasonable force was used or that any of the above has occurred.

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

### 300.5.2 INCIDENTS REQUIRING A SUPERVISOR'S REPORT

Use of force incidents that meet any one of the below listed criteria will be investigated and documented.

(a) An officer strikes a blow using any physical strength or object to a subject;

(b) An officer uses force which causes any visible or apparent physical injury, or which results in the subject claiming he or she was injured;

(c) An officer strikes a blow using any physical strength or object to a subject that causes any visible physical injury or which the subject complains of pain;

(d) An officer uses physical control on a subject beyond a physical compliance hold that causes any visible physical injury or which the subject complains of pain;

(e) An officer uses O.C./baton/ASP on any subject;

(f) An officer delivers a Less Lethal Kinetic Energy projectile at a person;

(g) A CEW application by an officer;

(h) Any bite or injury resulting from the use of a police service dog;

(i) Any other incident for which the supervisor/Watch Commander deems a "use of force" report is necessary.

(j) Any use of force where the suspect becomes unconscious.

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### 300.5.3 SUPERVISOR'S REPORT ON USE OF FORCE

The on-duty supervisor will investigate the use of force and complete the "Supervisor's Report on Use of Force" form. All relevant documents will be attached. The Supervisor's "Use of Force" report narrative should be documented in a memorandum format and contain the following headings/ information:

(a) Synopsis - A brief narrative of the incident:

(b) Suspect Information/Statements - If the supervisor was able to obtain a statement from involved suspect, the statement should be provided.

(c) Injuries - Describe in detail any injuries suffered by the suspect, officers or any other involved subject(s).

(d) De-Escalation - Describe any de-escalation techniques employed or an explanation why such techniques were not feasible

(e) Property Damage - Any property damage that occurred.

(f) Involved Officer(s) and Roles - Describe actions taken by involved officers.

(g) Investigation- Investigative steps taken, including but not limited to the review of relevant criminal reports and field based video footage, and interviews of relevant witnesses. If a relevant witness cannot or will not be interviewed immediately following an incident, this should be noted; a follow-up attempt should be made to do so, or the absence of an attempt explained. An attempt should be made to review relevant field based video belonging to other agencies, if applicable

(h) Attachments - Any pertinent documents and attachments.

(i) Opinions and Conclusions - A summary of the incident.

The report should be completed in as timely a manner as possible, with the investigating supervisor working in conjunction with their chain of command to determine a reasonable timeline for completion based on the circumstances of the case. The report will be routed through the chain of command for approval. The Division Captain, Assistant Police Chief and the Police Chief will conduct a final review.

### 300.5.4 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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

### 300.5.5 REPORT RESTRICTIONS

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

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## 300.6 DEADLY FORCE APPLICATIONS

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

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

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

(a) An officer may use deadly force to protect themself or others from what the officer reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.

(b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

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

Additionally, an officer shall not use deadly force against a person whose actions are a threat solely to property unless the person poses an imminent danger of death or serious physical injury to the officer or others in close proximity.

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

### 300.6.1 SHOOTING AT OR FROM MOVING VEHICLES

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

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

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### 300.6.2 DISPLAYING OF FIREARMS

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

(a) If the officer does not initially perceive a threat but reasonably believes that the potential for such threat exists (e.g., building search, yard search), firearms should generally be kept in the low-ready or other position not directed toward an individual.

(b) If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the officer no longer perceives such threat.

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

The following incidents shall be documented using the appropriate approved report:

(a) Anytime an officer points a firearm at any person

(b) Any firearm discharge (see the Firearms Policy)

## 300.7 MEDICAL CONSIDERATIONS

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

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

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

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

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control,

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may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

See the Medical Aid and Response Policy for additional guidelines.

### 300.8 SUPERVISOR RESPONSIBILITY

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

(a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

(b) Ensure that any injured parties are examined and treated.

(c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:

1. The content of the interview should not be summarized or included in any related criminal charges.
2. The fact that a recorded interview was conducted should be documented in a property or other report.
3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

(d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.

(e) Supervisors shall attempt to obtain a signed "Authorization for Release of Medical Information and Records" form (or other facility-specific release form as appropriate) from the subject prior to release or transfer to a custodial facility. If the subject signs the form, supervisors shall attempt to obtain the records related to the use of force between 14 and 30 days after the date of the incident and supplement the Supervisor's Report on Use of Force with them.

(f) Identify any witnesses not already included in related reports.

(g) Review and approve all related reports.

(h) Review any relevant field based video footage in a timely manner.

(i) Determine if there is any indication that the subject may pursue civil litigation.

1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

(j) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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

### 300.8.1 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy.

## 300.9 USE OF FORCE INCIDENTS/INTERNAL AFFAIRS INVESTIGATIONS

At any time after a use of force incident the supervisor has reason to believe the involved officer could be facing disciplinary action, the supervisor should immediately notify the Watch Commander. The Watch Commander will consult with the Division Captain and the Personnel and Training Lieutenant. If the decision is made to conduct an Internal Affairs Investigation, the initial supervisor should not conduct any further investigation unless directed otherwise. The initial supervisor will complete as much of the "Supervisor's Report on Use of Force" Form as possible. The supervisor will then check the box on the report form indicating Administrative Investigation and forward the report form to the designated Internal Affairs Investigator.

## 300.10 TRAINING

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

### 300.10.1 STATE-SPECIFIC TRAINING REQUIREMENTS

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

Additionally, training should include training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

### 300.10.2 TRAINING REQUIREMENTS

Required annual training shall include:

(a) Legal updates.

(b) De-escalation tactics, including alternatives to force.

(c) The duty to intercede.

(d) The duty to request and/or render medical aid.

(e) Warning shots (see the Firearms Policy).

(f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).

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

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### 300.11 USE OF FORCE COMPLAINTS

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

### 300.12 POLICY REVIEW

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

### 300.13 POLICY AVAILABILITY

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

### 300.14 PUBLIC RECORDS REQUESTS

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

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# Use of Force Review Boards

## 302.1 PURPOSE AND SCOPE

This policy establishes a process for the Palo Alto Police Department to review the use of force by its employees.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

## 302.2 POLICY

The Palo Alto Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

## 302.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

## 302.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to another.

The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use.

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

The Administrative Services Division Captain will convene the Use of Force Review Board as necessary. It will be the responsibility of the Division Captain or supervisor of the involved employee to notify the Administrative Services Division Captain of any incidents requiring board review. The involved employee's Division Captain or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

### 302.4.1 COMPOSITION OF THE BOARD

The Administrative Services Division Captain should select five Use of Force Review Board members from the following, as appropriate:

- Representatives of each division
- Commanding officer in the involved member's chain of command
- Personnel and Training Lieutenant

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- Non-administrative supervisor
- A peer officer
- A sworn peace officer from an outside law enforcement agency
- Department instructor for the type of weapon, device or technique used

The senior ranking command representative who is not in the same division as the involved employee will serve as chairperson.

### 302.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges the decision not to file criminal charges, or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

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

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

Any questioning of the involved employee conducted by the board will be in accordance with the department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

(a) The employee's actions were within department policy and procedure.

(b) The employee's actions were in violation of department policy and procedure.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief of Police.

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The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be forwarded to the involved employee's Division Captain for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police.

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# Handcuffing and Restraints

## 306.1 PURPOSE AND SCOPE

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

## 306.2 POLICY

The Palo Alto Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy, the Transporting Persons in Custody Policy, and [department/ office] training. Restraint devices shall not be used to punish, to display authority, or as a show of force.

## 306.3 USE OF RESTRAINTS

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

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

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

### 306.3.1 RESTRAINT OF DETAINEES

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

### 306.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall these persons be restrained by the use of leg irons or waist chains.

No person who is in labor, delivery or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the detainee, officers or others

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(Penal Code § 3407, Penal Code § 6030).See the Transporting Persons in Custody Policy for guidelines relating to transporting pregnant persons.

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

## 306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

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

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

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

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

## 306.5 APPLICATION OF SPIT HOODS

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

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

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and so that the restrained person can breathe normally. Officers should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed

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and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head, and clothing, prior to application of a spit hood.

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

## 306.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

## 306.7 APPLICATION OF LEG RESTRAINT DEVICES

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

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

(a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a person.

(b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).

(c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

### 306.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints, the following guidelines should be followed:

(a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

(b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

(c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on their stomach for an extended period, as this could reduce the person's ability to breathe.

(d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on their stomach.

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(e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

## 306.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

(a) The factors that led to the decision to use restraints.

(b) Supervisor notification and approval of restraint use.

(c) The types of restraint used.

(d) The amount of time the person was restrained.

(e) How the person was transported and the position of the person during transport.

(f) Observations of the person’s behavior and any signs of physiological problems.

(g) Any known or suspected drug use or other medical problems.

## 306.9 TRAINING

The Personnel and Training Lieutenant should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

(a) Proper placement and fit of handcuffs and other restraint devices approved for use by the [Department/Office].

(b) Response to complaints of pain by restrained persons.

(c) Options for restraining those who may be pregnant without the use of leg restraints, waist chains, or handcuffs behind the body.

(d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

(e) Proper placement of safely secured persons into an upright or seated position to avoid placement on the stomach for an extended period, as this could reduce the person's ability to breathe.

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# Control Devices and Techniques

## 308.1 PURPOSE AND SCOPE

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

## 308.2 POLICY

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

## 308.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

## 308.4 RESPONSIBILITIES

### 308.4.1 WATCH COMMANDER RESPONSIBILITIES

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

### 308.4.2 RANGEMASTER RESPONSIBILITIES

The Staff Assistant, Rangemaster or the designated instructor for a particular control device shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

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

### 308.4.3 USER RESPONSIBILITIES

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

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

### 308.5 BATON GUIDELINES

When based upon the circumstances perceived by the officer, such force reasonably appears justified and necessary to result in the safe control of the suspect the use of the baton is authorized. Officers are authorized to use the the following batons:

- Rapid Containment Baton (RCB)
- ASP Collapsible Baton
- Long Baton for riot control

The need to immediately control a suspect must be weighed against the risk of causing serious injury. When using the RCB, ASP or long baton, the head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

The Rapid Containment Baton or Asp Collapsible Baton shall be carried by all sworn, uniformed personnel while on-duty. When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt or load bearing vest.

Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

Officers will be provided training on the use of the Rapid Containment Baton and the Asp Collapsible Baton during the defensive tactics training provided every two years. Officer must show proficiency using the authorized baton that they choose to carry.

### 308.6 TEAR GAS GUIDELINES

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

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

### 308.7 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however,

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be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

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

#### 308.7.1 PEPPER PROJECTILE SYSTEMS

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

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

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

#### 308.7.2 TREATMENT FOR OC SPRAY EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Paramedics shall be requested immediately to treat the exposure and the subject shall be transported to the emergency room for medical clearance.

### 308.8 POST-APPLICATION NOTICE

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

### 308.9 KINETIC ENERGY PROJECTILE GUIDELINES

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

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### 308.9.1 DEPLOYMENT AND USE

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

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

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

(a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.

(b) The suspect has made credible threats to harm him/herself or others.

(c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.

(d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

### 308.9.2 DEPLOYMENT CONSIDERATIONS

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

(a) Distance and angle to target.

(b) Type of munitions employed.

(c) Type and thickness of subject’s clothing.

(d) The subject’s proximity to others.

(e) The location of the subject.

(f) Whether the subject’s actions dictate the need for an immediate response and the use of control devices appears appropriate.

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

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

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the

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officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

308.9.3 SAFETY PROCEDURES

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

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

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

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

## 308.10 TRAINING FOR CONTROL DEVICES

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

(a) Proficiency training shall be monitored and documented by a certified Defensive Tactics Instructor.

(b) All training and proficiency for control devices will be documented in the officer's training file.

(c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

## 308.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

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

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# Conducted Energy Device

## 309.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the conducted energy weapon (CEW).

## 309.2 POLICY

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

Definitions:

Activation - Depressing the trigger of a CEW causing the CEW to arc or fire probes.

Deployment - Removal of the CEW from the holster.

## 309.3 ISSUANCE AND CARRYING A CONDUCTED ENERGY WEAPON

Only officer's who have successfully completed department approved training may be issued and carry a CEW. CEWs are issued for use during an officer's current assignment.Those leaving a particular assignment may be required to return the CEW to the department's inventory.

Officers shall only use a CEW and cartridges that have been provided by the Department.

Uniformed officers who have been provided the CEW shall wear the CEW in an approved holster on their person.

Plainclothes officers may carry a CEW when appropriate (situation might include search/arrest warrant service and in-progress calls for service) so long as it is carried in an approved holster on their person.

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

When carried while in uniform, officers shall carry the CEW in a support side holster on the side opposite their duty weapon.

All CEWs shall be clearly and distinctly marked to differentiate them from their duty weapon and any other device.

Officers shall be responsible for ensuring that their provided CEW is properly maintained and in good working order.

Unless lethal force is justified, Officers should not hold both a firearm and the CEW at the same time.

Officers deploying a CEW, whenever possible, should have another officer present as a cover officer who is capable of providing immediate assistance.

Officers shall carry the TASER 7.

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### 309.4 VERBAL AND VISUAL WARNINGS

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

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with a warning that the CEW may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc, or the laser in a further attempt to gain compliance prior to the application of the CEW. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The officer responsible for the deployment of the CEW shall document the utilization of an electric arc or laser for warning purposes. Furthermore, the deploying officer shall document the existence or absence of a verbal warning in subsequent reports.

### 309.5 USE OF THE CEW

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

#### 309.5.1 APPLICATION OF THE CEW

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

**(a) The subject is violent or is physically resisting.**

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

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

#### 309.5.2 TARGETING CONSIDERATIONS

Recognizing that the dynamics of a situation and movement of the subject may affect target placement of probes, when practicable, officers should attempt to target the back, lower center mass, and upper legs of the subject, and avoid intentionally targeting the head, neck, area of the heart, or genitals. If circumstances result in one or more probes inadvertently striking an area outside of the preferred target zones, the individual should be closely monitored until examined by paramedics or other medical personnel.

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

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

(d) Individuals who are handcuffed or otherwise restrained.

(e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

(f) Individuals whose position or activity may result in collateral injury (e.g. falls from heights, bicycles, operating vehicles).

Because the application of the CEW in the drive stun mode (i.e. direct contact without probes) relies primarily on pain compliance, the use of the drive stun mode generally should be limited to supplementing the probe mode to complete the circuit by pressing the arc button.

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

### 309.5.3 MULTIPLE ACTIVATIONS OF THE CEW

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

If the first activation of the CEW appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional activations of the activation, including:

(a) Whether the probes are making proper contact.

(b) Whether the individual has the ability and has been given a reasonable opportunity to comply.

(c) Whether verbal commands, other options or tactics may be more effective.

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

### 309.5.4 ACTIONS FOLLOWING ACTIVATIONS

Officers

Officers should take appropriate actions to control and restrain the individual as soon as reasonably practicable to minimize the need for longer or multiple exposures to the CEW. As soon as practicable, officers shall notify a supervisor any time the CEW has been discharged. If

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needed for evidentiary purposes, the expended cartridge, along with any probes and wire should be submitted into evidence (including confetti tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

### 309.5.5 DANGEROUS ANIMALS

The CEW may be deployed against an animal if the animal reasonably appears to pose an imminent threat to human safety.

### 309.5.6 OFF-DUTY CONSIDERATIONS

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

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

## 309.6 DOCUMENTATION

Officers shall document all CEW activations in the related arrest/crime report. Photographs should be taken of any obvious probe impact or drive-stun application sites and attached to the CEW report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person and laser activation will be documented via CAD and additionally noted in any applicable police report.

Any accidental activation of a CEW device will be investigated by the involved officer's supervisor. The supervisor shall write a memorandum documenting the circumstances of the accidental activation and forward the memorandum to his/her Manager.

### 309.6.1 REPORTS

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

(a) The date, time, location and type of call

(b) Time of arrival

(c) Observations of suspect actions and circumstances justifying application of the CEW, including weapons possessed, level of aggression, suspect statements, distances between the suspect and threatened officers or citizens, etc.

(d) Documentation of warnings given prior to CEW activation or reasons those warnings were not given.

(e) Documentation of the use of laser dot.

(f) Officer's justification of reasonableness for force used for the initial activation and any subsequent activation.

(g) Method of use of the CEW (probe or drive stun), range at which the CEW was activated, and number of activations.

(h) Serial number and model of the CEW and serial number of any cartridge(s) used in the incident.

(i) Location and description of contact sites.

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(j) Type of clothing worn by the suspect.

(k) Response of the suspect to the CEW activation (ie. reactions such as "stiffened and fell backwards").

(l) All photographs taken of the scene, suspect, injuries, etc. Photos of probes should include a scale for reference.

(m) Injuries sustained by the suspect, officer(s), or citizens.

(n) Type of medical aid provided, including treating medical personnel names.

(o) Suspect transport for medical clearance and doctor's name.

(p) Officer shall document the suspect's completion of the "Authorization for Release of Medical Information and Records" form or the suspect's denial.

(q) Suspect booking information and custodial staff advisement of CEW activation.

(r) Identification of all personnel firing CEWs.

(s) Identification of all witnesses.

(t) Observation of the suspect's physical and physiological actions.

(u) Any known or suspected drug use, intoxication or other medical problems.

## 309.7 MEDICAL TREATMENT

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

All persons who have been struck by the CEW probes or who have been subjected to the electric discharge of the device, or who sustained direct exposure of the laser to the eyes shall be transported to a medical facility for examination and medically evaluated prior to booking..

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications shall be transported by paramedics to a medical facility for examination and medically evaluated prior to booking.

If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the activation of the CEW (see the Medical Aid and Response Policy).

## 309.8 SUPERVISOR RESPONSIBILITIES

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

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A supervisor should review each incident where a person has been exposed to an activation of the CEW. The device’s onboard memory should be downloaded through the data port by a supervisor or DT Instructor and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

Supervisors shall attempt to obtain a signed "Authorization for Release of Medical Information and Records" form from the subject prior to release or transfer to a custodial facility.

Following a CEW activation, the field supervisor shall notify the shift Lieutenant as soon as practical, but no later than the end of the shift.

Complete a Use of Force report pursuant to Policy 300 and submit the investigation to the next in line in the chain of command.

Obtain a TASER tracking number from the Personnel and Training Division.

## 309.9 TRAINING

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

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

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

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

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

Activation of CEWs during training could result in injuries and are not mandatory for certification.

The Personnel and Training Lieutenant should ensure the following training is conducted:

(a) A review of this policy.

(b) A review of the Use of Force Policy.

(c) Performing weak-hand draws until proficient to reduce the possibility of unintentionally drawing and firing a firearm.

(d) Target area considerations, to include techniques or options to reduce the unintentional activation of probes near to the head, neck, area of the heart and groin.

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(e) Scenario-based training.

(f) Handcuffing a subject during the activation of the CEW and transitioning to other force options.

(g) De-escalation techniques.

(h) Restraint techniques that do not impair respiration following the activation of the CEW.

(i) Proper use of cover and concealment during deployment of the CEW for purposes of officer safety.

(j) Proper tactics and techniques related to multiple applications of CEW.

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# Officer-Involved Shootings and Deaths

## 310.1 PURPOSE AND SCOPE

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

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

## 310.2 INVESTIGATION RESPONSIBILITY

This department conforms to the Santa Clara County Protocols Section 6 - Officer Involved Incidents for investigation responsibility when investigating officer-involved incidents.

Palo Alto Police Procedure Manual: 105.1 Officer Involved Incident County Protocol

## 310.3 INVESTIGATION PROCESS

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

### 310.3.1 UNINVOLVED OFFICER RESPONSIBILITIES

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

(a) Secure the scene and identify and eliminate hazards for all those involved.

(b) Take reasonable steps to obtain emergency medical attention for injured individuals.

(c) Request additional resources from the Department or other agencies.

(d) Coordinate a perimeter or pursuit of suspects.

(e) Check for injured persons and evacuate as needed.

(f) Brief the supervisor upon arrival.

### 310.3.2 WATCH COMMANDER RESPONSIBILITIES

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

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

### 310.3.3 SUPERVISOR RESPONSIBILITIES

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

(a) Attempt to obtain a brief overview of the situation from any uninvolved officers.

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1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.

(b) If necessary, the supervisor may administratively order any PAPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.

1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.

2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.

(c) Provide all available information to the Watch Commander and the Communications Center. If feasible, sensitive information should be communicated over secure networks.

(d) Take command of and secure the incident scene with additional PAPD members until properly relieved by another supervisor or other assigned personnel or investigator.

(e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.

1. Each involved PAPD officer should be given an administrative order not to discuss the incident with other involved officers or PAPD members pending further direction from a supervisor.

2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

### 310.3.4 INVOLVED OFFICERS

The following shall be considered for the involved officer:

(a) Any request for legal or union representation will be accommodated.

1. Involved PAPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.

2. Requests from involved non-PAPD officers should be referred to their employing agency.

(b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.

(c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).

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(d) A licensed psychotherapist shall be provided by the Department to each involved PAPD officer. A licensed psychotherapist may also be provided to any other affected PAPD members, upon request.

1. Interviews with a licensed psychotherapist will be considered privileged.
2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

(e) Communications between the involved officer and a peer support member are addressed in the Wellness Program Policy.

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

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

#### 310.3.5 NOTIFICATION TO DEPARTMENT OF JUSTICE

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

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

## 310.4 CRIMINAL INVESTIGATION

The District Attorney's Office and the primary agency where the incident occured are responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

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

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

(a) PAPD supervisors and Administrative personnel should not participate directly in any voluntary interview of PAPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.

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(b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators (Government Code § 3303(i)). However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.

(c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.

(d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

### 310.4.1 REPORTS BY INVOLVED PAPD OFFICERS

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

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

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

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

### 310.4.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

(a) Identification of all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.

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2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the department.

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

(c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

### 310.4.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death in the PAPD jurisdiction, it shall be the responsibility of the designated Investigative Services Division Captain to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

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

## 310.5 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting, this department will conduct an internal administrative investigation to determine conformance with department policy. This investigation will be conducted under the supervision of a Division Captain and will be considered a confidential peace officer personnel file.

(a) Any officer involved in a shooting may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

(b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.

1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The

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involved officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interview(s) (Government Code § 3303(g))

(c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information. Interviews of members shall be subject to Department policies and applicable laws (see the Personnel Complaints Policy).

1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer'(s) physical and psychological needs have been addressed before commencing the interview.
2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview (Government Code § 3303(i)). However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
3. Administrative interview(s) should be recorded by the investigator (the officer may also record the interview) (Government Code § 3303(g)).
4. The officer shall be informed of all constitutional *Miranda* rights (Government Code § 3303(h)) and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions (Government Code § 3303(e)). The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The *Lybarger* or *Garrity* admonishment).
5. The administrative interview shall be considered part of the officer's confidential personnel file.
6. The assigned internal affairs investigator shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
7. The completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of force policy.
8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

## 310.6 CIVIL LIABILITY RESPONSE

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

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

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## 310.7 DEBRIEFING

Following an officer-involved shooting or death, the Palo Alto Police Department should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

### 310.7.1 TACTICAL DEBRIEFING

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

## 310.8 REPORTING

If the death of an individual occurs in the Palo Alto Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide, the Field Services Division Captain will ensure that the Records Manager is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022).

## 310.9 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Watch Commander, Investigative Services Division Captain and Press Information Officer in the event of inquiries from the media.

The Department shall not subject any involved PAPD officer to visits by the media (Government Code § 3303(e)). No involved PAPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Division Captain. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

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# Firearms

## 312.1 PURPOSE AND SCOPE

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

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

This policy only applies to those members who are authorized to carry firearms.

## 312.2 POLICY

The Palo Alto Police Department will equip its members with firearms to address the risks posed to the public and [department/office] members by violent and sometimes well-armed persons. The [Department/Office] will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

### 312.2.1 AUTHORIZED OFF-DUTY FIREARM

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

(a) The firearm shall be of good quality and workmanship and approved by the Department.

(b) The purchase of the firearm shall be the responsibility of the officer.

(c) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.

(d) It will be the responsibility of the officer to submit the firearm to the Rangemaster for inspection prior to being carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.

(e) Prior to carrying any off-duty firearm, the officer shall demonstrate to the Rangemaster that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.

(f) The officer will successfully qualify with the firearm prior to it being carried and thereafter once every six months. The range qualification dates will be specified by the Rangemaster.

(g) A complete description of the firearm shall be contained on the qualification record approved by the Rangemaster.

(h) If any member desires to use more than one firearm while off-duty, he/she may do so, as long as the officer meets all the requirements set forth in this policy for each firearm used.

(i) Officers shall only carry department-authorized ammunition.

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(j) When armed, whether on- or off-duty, officers shall carry their badge and department identification.

### 312.2.2 AMMUNITION

Members shall carry only department-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the [Rangemaster] when needed, in accordance with established policy.

Members carrying personally owned authorized firearms of a caliber differing from department-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

### 312.2.3 ALCOHOL AND DRUGS

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

### 312.2.4 LASER SIGHTS

Laser sights may only be installed on a weapon carried on or off-duty after they have been examined and approved by the Rangemaster.

(a) Any approved laser sight shall only be installed in strict accordance with manufacturer specifications.

(b) Once approved laser sights have been properly installed on any weapon, the officer shall qualify with the weapon to ensure proper functionality and sighting of the weapon prior to carrying it.

Except in an approved training situation, an officer may only activate a laser sight when the officer would otherwise be justified in pointing a weapon at an individual or other authorized target.

### 312.2.5 REQUIRED EQUIPMENT

(a) **Carrying of Duty Weapons** - Officers who are on duty shall carry their firearm secured on their person in an approved holster. Officers in full time administrative assignments are exempt from this requirement when they are not involved in enforcement activities. Officers interviewing children or victims of violent crimes may remove their weapon for the duration of the interview, provided the weapon is locked in a secure storage area. Division Captains may determine the need for mandatory carrying of weapons by personnel on a case-by-case basis.

1. The barrel length of firearms carried by uniformed officers will be four to six inches. The barrel length of firearms carried by plainclothes officers will be two to six inches.

2. The weapon's caliber will be 9mm,.45 ACP or.40 caliber;

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3. The weapon must meet all specifications and requirements to ensure that it is properly maintained and functional;
4. 1911/2011 Model.45 / 9mm /.40 caliber pistols are authorized for on duty carry under the following provision:
    (a) The manufacturer be approved by Range staff;
    (b) The barrel length is from 3.9 to 5 inches for on duty carry. Shorter barrels are authorized for plainclothes assignments;
    (c) The weapon is carried in an SS III or SS II retention holster for uniformed duty;
    (d) For plainclothes assignments, an approved holster with a snap device between the hammer and firing pin is required;
    (e) All safety devices must be activated during carry mode and not be deactivated until a threat is perceived;
    (f) The officer must pass a mandatory ten hour course of instruction to carry the weapon on duty.

(b) **Holsters** - All on duty firearms will be carried in a good quality belt or shoulder holster. The holster will be provided for an officer's Department issued weapon for both uniformed and full time plainclothes assignments. The holster must be surrendered when the officer returns to a uniformed assignment. If an officer elects to carry a privately owned weapon in either a uniformed or non-uniformed assignment, he/she must provide all associated leather gear and magazines. All holsters are subject to the approval of the Firearms Training staff.
    (a) On duty weapons will not be carried in "inside the pants clip on" holsters, ankle holsters or butt packs;
    (b) Off duty weapons will be carried in a good quality holster. "Clip on" holsters, ankle holsters and butt packs are authorized for off duty use.

(c) **Ammunition Requirements** - All officers when working in the field, on duty, shall carry extra ammunition on their person at all times. Uniformed and plainclothes officers will carry a minimum of fourteen extra rounds of ammunition in magazines.

(d) **Additional Equipment** - On duty officers who are working in the field in plainclothes must carry their badge, Identification card, handcuffs in a secured handcuff case, and a radio. Plainclothes, on duty personnel shall cover duty weapons and ammunition while out of the station.

### 312.2.6 OFFICER'S RESPONSIBILITY

(a) The Department shall issue one firearm to each officer, as well as the necessary extra magazines and leather gear. It is the officer's responsibility to ensure the security of the weapon at all times and to maintain it in good working order.

(b) With the exception of emergency field situations, officers shall not trade, borrow, loan or otherwise allow other officers to use his/her issued weapon.

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(c) If an officer elects to carry a privately owned weapon, he/she may be required to surrender their Department issued weapon. Exceptions to this may be made with the permission of the Personnel and Training Lieutenant or the Range Master

312.2.7 FIREARM RECORDS

Prior to a firearm being carried on or off duty, the serial number, make, model, and caliber will be recorded on a Range Training Record at the time the officer qualifies with the weapon. The Personnel and Training Unit will maintain all records of firearms training, as well as all records concerning the issuing of firearms to Department personnel.

## 312.3 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

Trained armorers within the department shall be the only persons authorized to repair or modify any department-owned weapon. A trained armorer is an individual who has successfully completed a manufacturer-specific armorer's course. All repairs and/or modifications of department issued weapons not performed by a trained armorer must be approved in advance by the Rangemaster and accomplished by a department approved gunsmith.

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

## 312.4 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

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

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

312.4.1 HANDGUNS

The authorized [department/office]-issued handgun are.

| MAKE | MODEL | CALIBER |
|---|---|---|
| Glock | 17 and 17 MOS | 9MM |
| Glock | 21 MOS | .45CAL |
| Glock | 22 | .40CAL |

All entry-level officers hired on or after September 1, 2024, shall carry a handgun equipped with an optic while on uniformed or plain-clothes duty. Before attending the academy, these officers will receive in-house range training with a pistol-mounted optic.

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Officers hired before September 1, 2024 can carry a handgun equipped with an optic or one with iron sights for both uniformed and plain-clothes duty.

Lateral officers hired on or after September 1, 2024, may choose to carry either a handgun equipped with an optic or one with iron sights for both uniformed and plain-clothes duty

Off-duty and backup guns are exempt from the optic requirement.

All personnel carrying a pistol-mounted optic on duty must complete a department-approved course or equivalent training approved by the Rangemaster, and demonstrate proficiency with the optic during qualification

Department-issued firearms shall not be modified. Officers may voluntarily purchase and carry the following pistol-mounted optics on their personally owned handgun at their own expense, provided they demonstrate proficiency with the pistol and optic during qualification:

a. Trijicon

b. Aimpoint

c. Holosun

d. Other optics with the approval of the Rangemaster

Pistol-mounted optics must be installed exclusively by Department Range staff. Officers opting to carry a personally owned handgun are responsible for purchasing both the optic and the corresponding mounting plate. These handguns must also be equipped with back-up iron sights. Once approved for carry, the officer is responsible for maintaining their personally owned pistol and optic in proper working condition at their own expense.

Officers must conduct a pre-shift inspection of their optic, ensuring it is functioning properly and checking for any loose screws. The optic battery must be replaced at least once per year

### 312.4.2 STORAGE AT HOME

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

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

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

### 312.4.3 STORAGE OF FIREARMS IN VEHICLES

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

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

### 312.4.4 FIREARMS SCENARIO TRAINING

Firearms scenario training within SWAT, Defensive Tactics, the FTO Program, Advanced Officer's Courses, Firearms Training Simulator, Virtual Reality, and Watch Training present risks due to the presence of firearms. The purpose of this policy is to limit and regulate the use of firearms in training scenarios. This policy is written in compliance with POST guidelines.

1) **FIREARMS SAFETY:** All personnel are responsible for installation and utilization of the Department issued barrel/chamber safety device in their duty weapon at all times during firearms scenario training. 2) Firearm and Defensive Tactics Instructors

(a) All Department training scenarios requiring the sequestering, deployment, or use of any firearm will require the attendance of a Department certified Firearms Instructor. All Firearms Instructors will know and abide by this policy

(b) The Firearms Instructor's responsibilities relate only to firearms safety and security. At no time will a Firearms Instructor responsible for firearms security participate in scenario training as an instructor, role player, or other support role;

(c) Defensive Tactics Instructors may only be utilized as safety inspectors during training.

(d) Defensive Tactics Instructors will not handle students' weapons. Students will be instructed to arrive without ammunition.

(e) Defensive Tactics Instructors will ensure that no ammunition are present at the training site.

(f) Firearms Instructor's will be responsible for conducting an inspection of all participant's firearms to ensure they are equipped with the Department issued barrel/chamber safety device.

(g) Inspections will occur at the beginning of each training session and at any other time as determined by the Firearms Instructor.

3) Training Site Requirements

(a) All scenario training sites where firearms are present are subject to the provisions of this policy;

(b) Training sites under the purview of this policy shall be designated "Police Training Zones". Training zones will be clearly posted as no ammunition zones;

(c) "Police Training Zones" will be posted utilizing available signs. Unchecked firearms, ammunition, magazines, and speed loaders are expressly forbidden from entering the training zone. All persons entering the zone are subject to inspection. All purses, backpacks, coolers, bags, etc., are also subject to inspection;

(d) Entry and exit into the training zones will be through a single entry point. Any person leaving the training zone shall notify the Firearms Instructor at the entry/exit point, and shall be inspected before re-entry.

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4) Weapons Storage - If Applicable

(a) All training sites subject to the provisions of this policy shall provide for the safe and secure storage of firearms. Personnel attending training may opt to secure weapons and ammunition with the Firearms Instructor, or secure weapons and ammunition in personal vehicles;

(b) The weapons storage area may consist of a vehicle trunk, van, or locked storage vessel. The Firearms Instructor shall possess the only key;

(c) The weapons inspection/storage area shall be predetermined by the Firearms Instructor prior to the commencement of training. The Firearms Instructor is responsible for selecting a safe area for handling of firearms, giving due consideration to location, backstop, surroundings, distractions, and number of people present;

(d) Weapons placed in storage with the Firearms Instructor should be placed in an envelope, or box, along with all ammunition, magazines, or loaders. In order to minimize manipulation of the gun, it should not be unloaded prior to storage. Envelopes, or boxes, shall be plainly marked with the owner's name;

(e) Firearms Instructors will re-distribute weapons at the close of training.

5) SWAT Training/Exceptions

(a) All sniper rifles used in training scenarios will have the bolt removed, rendering the gun inoperable. The bolt will be kept in secure storage by the Firearms Instructor. Additionally, the barrel/fore end of the gun will be banded with colored tape as a visual indication that the weapon has been checked. Gas guns will have the breech area taped closed, and will be taped around the barrel/fore end.

(b) Due to constant up-grading of weaponry used by SWAT, occasions may arise when firearms may be utilized during training for which there is no red gun equivalent. In such cases, firearms will be rendered inoperable by a Firearms Instructor by removal of the bolt, or by placing non-removable cable ties through the ejection port/breech face area, and magazine well. Cable ties placed in such a fashion prevent the bolt from closing, prevent the possibility of magazine insertion, prevent a round from being chambered, and prevent the firing pin from being able to reach a chambered round. Additionally, the firearms barrel/fore end shall be banded with colored tape as a visual indication that the weapon has been inspected and disabled.

5) Responsibility

(a) Safety is the responsibility of all persons involved in the training scenario: Instructors; Trainee's; and Role Player's. Any participant is granted the authority to halt training if any breach of this policy is observed. No participant will be censured for halting a training exercise.

(b) Role players shall be offered the opportunity, and should be encouraged to be present during pre-training weapons inspections. Role players will not participate in the actual inspection or exchange process, but will serve merely as observers.

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### 312.4.5 PATROL RIFLES

In order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects, the Palo Alto Police Department will make patrol rifles available to qualified patrol officers as an additional and more immediate tactical resource.

The Department recognizes that there exists the need to meet all deadly force threats with the most effective equipment possible. In keeping with the policy that officers must be prepared to act decisively to defend innocent lives, the Department has authorized the use of patrol rifles. The rifle will allow officers to effectively confront all deadly force threats through its accuracy, superior ballistic effectiveness and range capabilities.

A patrol rifle is an authorized weapon which is owned by the Department and which is made available to properly trained and qualified officers as a supplemental resource to their duty handgun. No personally owned rifles may be carried for patrol duty unless preapproved in writing by the Chief of Police.

The authorized [department/office]-issued patrol rifle is the Colt AR-15 Tactical Carbine, Model 6721,.223 caliber. The following additional patrol rifles are approved for on-duty use:

| MAKE | MODEL | CALIBER |
|---|---|---|
| Colt | AR_15 / 6920 / M4 | .223CAL / 5.56MM |
| Windham | AR-15 / M4 | .223CAL / 5.56MM |
| Daniel Defense | M4V7S | .223CAL / 5.556MM |

The carbine shall have the following equipment:

(a) A retractable stock;

(b) A tactical sling;

(c) A lighting system mounted to the weapon;

(d) Tritium sights and a red dot sighting system;

(e) Two 30 round Magpul Pmag magazines, shall be issued to each rifle qualified officer.

(f) Officers can attach an optional foregrip to the weapon with the approval of the Rangemaster.

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include but are not limited to:

(a) Situations where the member reasonably anticipates an armed encounter.

(b) When a member is faced with a situation that may require accurate and effective fire at long range.

(c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.

(d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.

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(e) When a member reasonably believes that a suspect may be wearing body armor.

(f) When authorized or requested by a supervisor.

(g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured consistent with [department/office] training in a locking weapons rack in the patrol vehicle.

### 312.4.6 RIFLE MAINTENANCE

(a) Primary responsibility for maintenance of patrol rifles shall fall on the Rangemaster, who shall inspect and service each patrol rifle on an annual basis.

(b) Each patrol officer carrying a patrol rifle may be required to field strip and clean an assigned patrol rifle as needed.

(c) Each patrol officer shall be responsible for promptly reporting any damage or malfunction of an assigned patrol rifle.

(d) Any patrol rifle found to be unserviceable shall be removed from service. The rifle shall be clearly labeled as "out of service" and details regarding the weapon's condition shall be included on the label.

(e) Each patrol rifle shall be subject to inspection by a supervisor or the Rangemaster at any time.

(f) No modification shall be made to any patrol rifle without prior written authorization from the Rangemaster.

### 312.4.7 TRAINING

Officers shall not carry or utilize the patrol rifle unless they have successfully completed departmental training. This training shall consist of an initial POST-approved patrol rifle user's course and qualification score with a certified patrol rifle instructor. Officers shall thereafter be required to attend departmental training on a bi-annual basis.

### 312.4.8 PATROL READY

Any qualified officer carrying a patrol rifle in the field shall maintain the weapon in a patrol ready condition until deployed. A rifle is considered in a patrol ready condition when it has been inspected by the assigned officer, the fire selector switch is in the safe position, the chamber is empty and a fully loaded magazine is inserted into the magazine well.

### 312.4.9 RIFLE STORAGE

(a) Weapon shall be mounted in an electronic locking mount located between the driver and passenger seat. Certain other Department vehicles may have electronic mounts located in the trunk of the vehicle. The weapons shall not be carried unsecured in the passenger or trunk area of the vehicle.

(b) Officers are responsible for the maintenance and security of the weapon and all associated equipment at all times.

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(c) Officers should remove their rifles from their vehicles at the end of their shifts and store them in their assigned locker.

312.4.10 AUTHORIZED SECONDARY FIREARM

Officers desiring to carry a secondary firearm are subject to the following restrictions:

(a) The firearm shall be in good working order and on the department's list of approved firearms.

(b) Only one secondary firearm may be carried at a time.

(c) The purchase of the firearm and ammunition shall be the responsibility of the officer.

(d) The firearm shall be carried out of sight at all times and in such a manner as to prevent accidental cocking, discharge or loss of physical control.

(e) The firearm shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever deemed necessary.

(f) Ammunition shall be the same as department issue. If the caliber of the firearm is other than department issue, the Chief of Police shall approve the ammunition.

(g) Prior to carrying the secondary firearm, personnel shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Officers must demonstrate proficiency and safe handling, and that the firearm functions properly.

(h) Personnel shall provide written notice of the make, model, color, serial number, and caliber of a second firearm to the Rangemaster.

## 312.5 FIREARMS QUALIFICATIONS

(a) **MISSED BI-ANNUAL SHOOT**

1. Except as noted in Policy Manual §312.31 (c), all sworn personnel shall participate in bi-annual Department sponsored shoots unless excused by their Division Captain. If excused, the Division Captain will notify the Personnel and Training supervisor prior to that shoot

2. Failure to attend a qualification in the absence of an approved waiver may result in disciplinary action. An officer who fails to attend a qualification without an approved waiver must submit a Missed Shoot Record form to the Personnel and Training Lieutenant via their Division Captain explaining the reason for their failure to attend mandatory training.

3. An officer on scheduled vacation, disability, bereavement leave, extended sick time, or attending a training school will be excused from attending a shoot. However, under no circumstances may an officer be excused from two consecutive qualifications and still be authorized to carry a firearm.

4. The Rangemaster will notify the officer's supervisor of the lapse in qualifying and will notify the officer in writing of the suspension of his/her authorization to carry a firearm. Officers on extended disability or light duty must qualify prior to returning to full duty status.

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5. Officers who fail to attend their scheduled shoot time due to an illness of short duration are responsible for contacting the Rangemaster to notify them of their absence the same day and to reschedule a new shoot time.

(b) **Qualification** - All sworn personnel shall qualify at biannual shoots with any and all weapons that they intend to carry during the next quarter.

1. Officers are expected to qualify twice a year with their on and off duty weapon(s). If an officer misses a department qualification, the officer must qualify at the earliest available opportunity thereafter, but no later than the next department shoot. The exception to this would be scheduled maintenance or repair, and the weapon will be exchanged for a weapon of the same make, model and caliber.
2. The Department shall provide annual qualification with the Department issued rifle. Only those who qualify with the rifle are authorized to carry it in the field.
3. At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

(c) **SWAT Members** - All current SWAT members are excused from participating in the regular department qualifications. SWAT personnel qualify bi-annually as part of their requirement to stay active and those shoots will be recorded as their bi-annual qualification. If an officer fails to attend and qualify at the SWAT bi-annual qualification, then they must attend the next department qualification.

1. A SWAT officer who fails to attend the SWAT qualification and then misses the department qualification without an approved waiver, must submit a Missed Shoot Record form to the Rangemaster via their supervisor explaining the reason(s) for their failure to attend mandatory training.

(d) **Standards** - In order to be sanctioned to carry a firearm on duty or off duty, an officer must meet minimum Department standards. All officers must attain a minimum score of 75 percent, as well as demonstrate acceptable performance in all related firearms areas (safety, reloading, tactics, etc.). Firearms instructors will document whether the officer passed or failed their qualification.

(e) **Expert Pins** - All sworn personnel are eligible to earn a Firearms Expert Pin if they meet the following requirements:

1. A score of 95% on the qualification shoot and; The officer must qualify with 95% score on two consecutive qualification shoots.
2. Only an officer's primary weapon score can be utilized in order to obtain an expert pin. If an officer brings a secondary weapon to the shoot, he/she will qualify with their primary weapon first. The officer's secondary weapon's score will not qualify for an expert pin.
3. Range Instructors will be responsible for tracking the expert pin qualification scores and issuing the pins. Once an officer is issued a pin, the officer must continue to qualify with a score of at least 95% with their primary weapon in order to display the pin. If an officer fails to obtain a score of at least 95%, the officer may not wear the pin..

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312.5.1 NON QUALIFICATION

The range staff will make every effort to provide remedial training to the officer after the initial non-qualification. If an officer is unable to meet the required standards at that time and remedial training is necessary, the range instructor shall do the following:

(a) Direct the officer, if he/she is on duty to immediately return to the station. The instructor will not confiscate the weapon;

(b) The range instructor will immediately notify the on duty Watch Commander of the officer's status. Under no circumstances will the officer be kept in a field assignment. The Watch Commander shall notify the appropriate division captain;

(c) During normal working hours, the range instructor will notify the Personnel and Training Supervisor or Lieutenant. During non-working hours, he/she will notify the Rangemaster;

(d) It shall be the responsibility of the Personnel and Training Supervisor and the Rangemaster to arrange remedial training for the officer, preferably on the following day so that he/she may be returned to full duty status as soon as possible;

(e) Range instructors shall be responsible for the documentation of an officer's qualifications scores to carry on duty and off duty firearms. The qualification record shall be specific as to the officer's deficiencies and state what remedial training will be required. Once the officer has successfully completed the remedial training, the range instructor must complete a training record certifying the officer's return to full duty status;

(f) The Personnel and Training Unit shall be responsible for forwarding this documentation to the officer's captain.

## 312.6 WARNING AND OTHER SHOTS

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

## 312.8 FIREARM DISCHARGE

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

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

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

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

312.8.1 ACCIDENTAL DISCHARGE-OUTSIDE AGENCY

In the event that another law enforcement agency member has an accidental discharge while inside the City of Palo Alto, the following shall occur:

(a) Render first aid;

(b) On-duty supervisor notified;

(c) Scene security;

(d) Identify and secure witnesses;

(e) Attempt to recover the round(s);

(f) Obtain photographs of scene/injuries/damage to property;

(g) Document incident as an informational case (Discharging a firearm).

312.8.2 SUPERVISOR'S RESPONSIBILITIES

The on-duty supervisor should immediately respond to the scene and ensure that the proper steps are taken. The supervisor should also notify the following:

(a) The outside law enforcement officer's supervisor;

(b) The Watch Commander.

## 312.9 RANGEMASTER DUTIES

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

The range shall remain operational and accessible to [department/office] members during hours established by the [Department/Office].

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

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

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The Rangemaster shall complete and submit to the Personnel and Training Lieutenant documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the [Department/Office], a list of each member who completes the training. The Rangemaster should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Personnel and Training Lieutenant.

### 312.10 CARRYING FIREARMS OUT OF STATE

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

(a) The officer shall carry his/her Palo Alto Police Department identification card whenever carrying such firearm.

(b) The officer is not the subject of any current disciplinary action.

(c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(d) The officer will remain subject to this and all other [department/office] policies (including qualifying and training).

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

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

### 312.10 FLYING WHILE ARMED

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

(a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the [Department/Office] based on the law and published TSA rules.

(b) Officers must carry their Palo Alto Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief of Police or the official seal of the [Department/Office] and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).

(c) The Palo Alto Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If

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approved, TSA will send the Palo Alto Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.

(d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.

(e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the [department/office]-appointed instructor.

(f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.

(g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.

(h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

(i) Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.

(j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

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# Vehicle Pursuits

## 314.1 PURPOSE AND SCOPE

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

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

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

### 314.1.1 VEHICLE PURSUIT DEFINED

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

### 314.1.2 FAILURE TO YIELD

A Failure to Yield refers to the actions of a vehicle operator who fails to stop or respond to the emergency light(s) and siren of a law enforcement vehicle, but does not demonstrate an intention to willfully evade. The vehicle operator continues to travel at or below the speed limit, observes all applicable rules of the road and does not change the direction of travel in an evasive manner. An officer may follow the vehicle for such time as is necessary to effect a vehicle stop and/or identify the vehicle operator for later contact, or until directed otherwise by a supervisor.

## 314.2 OFFICER RESPONSIBILITIES

It shall be the policy of this department that a vehicle pursuit shall be conducted only with red light and siren as required by Vehicle Code § 21055 for exemption from compliance with the rules

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of the road. The following policy is established to provide officers with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056.

### 314.2.1 WHEN TO INITIATE A PURSUIT

The following factors shall be considered in deciding whether to initiate a pursuit:

- [redacted]
- [redacted]

Officers are authorized to continue a pursuit unless conditions and circumstances change to the point that the danger to officers, other motorists and/or pedestrians outweighs the need to apprehend the violator.

Vehicle pursuits are one of the most dangerous enforcement actions an officer may be involved in. Officers must consider that their decision to initiate, continue or terminate a pursuit may result in fatal consequences. In making that decision officers should consider the following:

(a) Seriousness of the known or reasonably suspected crime and its relationship to community safety;

(b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists, and others.

(c) Apparent nature of the fleeing suspect(s) (e.g., whether the suspect(s) represent a serious threat to public safety);

(d) . The identity of the suspect(s) has been verified and there is comparatively minimal risk in allowing the suspect(s) to be apprehended at a later time;

(e) Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic and the speed of the pursuit relative to these factors;

(f) Pursuing officer(s) familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing officers under the conditions of the pursuit;

(g) Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of apprehending the suspect;

(h) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit;

(i) Vehicle speeds.

(j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders, hostages).

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(k) Availability of other resources such as helicopter assistance;

(l) The police vehicle is carrying passengers other than police officers. Pursuits should not be undertaken with a prisoner(s) in the police vehicle.

### 314.2.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

The factors listed in WHEN TO INITIATE A PURSUIT of this policy are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit.Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists and themselves when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean discontinue or to stop chasing the fleeing vehicle.

In addition to the factors listed in WHEN TO INITIATE A PURSUIT of this policy, the following factors should also be considered in deciding whether to terminate a pursuit:

(a) Distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.

(b) Pursued vehicle's location is no longer definitely known.

(c) Officer's pursuit vehicle sustains any type of damage that renders it unsafe to drive.

(d) There are hazards to uninvolved bystanders or motorists.

(e) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.

(f) Pursuit is terminated by a supervisor.

### 314.2.3 SPEED LIMITS

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

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

(a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.

(b) Pursuit speeds have exceeded the driving ability of the officer.

(c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

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### 314.3 PURSUIT UNITS

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

#### 314.3.1 MOTORCYCLE OFFICERS

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

#### 314.3.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Vehicles not equipped with red light and siren are generally prohibited from initiating or joining in any pursuit. Officers in such vehicles, however, may become involved in emergency activities involving serious crimes or life threatening situations. Those officers should terminate their involvement in any pursuit immediately upon arrival of a sufficient number of emergency police vehicles or any police helicopter. The exemptions provided by Vehicle Code § 21055 do not apply to officers using vehicles without emergency equipment.

#### 314.3.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspects without unreasonable danger to him/herself or other persons.

Notify the Communications Center that a vehicle pursuit has been initiated and as soon as practicable provide information including, but not limited to:

(a) Reason for the pursuit.

(b) Location and direction of travel.

(c) Speed of the fleeing vehicle.

(d) Description of the fleeing vehicle and license number, if known.

(e) Number of known occupants.

(f) The identity or description of the known occupants.

(g) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

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

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relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

### 314.3.4 SECONDARY UNIT RESPONSIBILITIES

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

(a) The officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit.

(b) Remain a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.

(c) The secondary officer should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.

### 314.3.5 PURSUIT DRIVING TACTICS

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

(a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.

(b) Because intersections can present increased risks, the following tactics should be considered:

1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
2. Pursuing units should exercise due caution when proceeding through controlled intersection

[redacted]

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

(e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit.

### 314.3.6 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian

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traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

Non-pursuing personnel needed at the termination of the pursuit should respond in a nonemergency manner, observing the rules of the road.

The primary and secondary units should normally be the only units operating under emergency conditions (red light and siren) unless other units are assigned to the pursuit. A Code 3 response for additional units can be authorized by a supervisor if necessary, specifically to allow those units to get to a position to deploy intervention techniques.

#### 314.3.7 PURSUIT TRAILING

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of a supervisor, trail the pursuit to the termination point in order to provide necessary information and assistance for the arrest of the suspects.

The term trail means to follow the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

#### 314.3.8 AIRCRAFT ASSISTANCE

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

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

### 314.4 SUPERVISORY CONTROL AND RESPONSIBILITIES

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

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

(a) (a) Upon becoming aware of a pursuit, immediately ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.

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(b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.

(c) Exercising management and control of the pursuit even if not engaged in it.

(d) Ensuring that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.

(e) Directing that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.

(f) Ensuring that aircraft are requested if available.

(g) Ensuring that the proper radio channel is being used.

(h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.

(i) Controlling and managing PAPD units when a pursuit enters another jurisdiction.

(j) Preparing post-pursuit critique and analysis of the pursuit for training purposes.

### 314.4.1 WATCH COMMANDER RESPONSIBILITIES

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

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

## 314.5 THE COMMUNICATIONS CENTER

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

### 314.5.1 THE COMMUNICATIONS CENTER RESPONSIBILITIES

Upon notification that a pursuit has been initiated, the Communications Center will:

(a) Restrict radio traffic (Code 22);

(b) Identify the secondary unit;

(c) Coordinate pursuit communications of the involved units and personnel;

(d) Notify and coordinate with other involved or affected agencies as practical;

(e) Ensure that a field supervisor is notified of the pursuit;

(f) Assign an incident number and log all pursuit activities;

(g) Broadcast pursuit updates as well as other pertinent information as necessary;

(h) Notify the Watch Commander as soon as practical;

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(i) Attempt to identify the driver of the suspect vehicle and his/her home address by means of vehicle license plate, if available

(j) Repeat information from pursuing officers as needed. Always repeat critical information regarding weapons, shots fired, etc.

### 314.5.2 LOSS OF PURSUED VEHICLE

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

## 314.6 INTER-JURISDICTIONAL CONSIDERATIONS

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

### 314.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

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

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

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local agencies and CHP units, a request for CHP assistance will mean that they will assume responsibilities for the pursuit. For the same reasons when a pursuit leaves the freeway and a request for assistance is made to this department, the CHP should relinquish control.

### 314.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION

[redacted]

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

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(a) Ability to maintain the pursuit

(b) Circumstances serious enough to continue the pursuit

(c) Adequate staffing to continue the pursuit

(d) The public's safety within this jurisdiction

(e) Safety of the pursuing officers

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

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

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

### 314.6.3 ADDITIONAL SUPERVISOR CONSIDERATION

When a request is made for this department to assist or take over a pursuit from another agency that has entered this jurisdiction, the supervisor shall ensure that the reason for the pursuit conforms to this policy; i.e. violent felony.

## 314.7 PURSUIT INTERVENTION

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, [redacted]

### 314.7.1 WHEN USE IS AUTHORIZED

Use of pursuit intervention tactics should be employed only after approval of a supervisor. In deciding whether to use intervention tactics, officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers and persons in or on the pursued vehicle. With these risks in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances confronting the officer at the time of the decision.

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

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### 314.7.2 DEFINITIONS

[redacted]

### 314.7.3 USE OF FIREARMS

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably appears necessary to protect life. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

### 314.7.3 INTERVENTION STANDARDS

[redacted]

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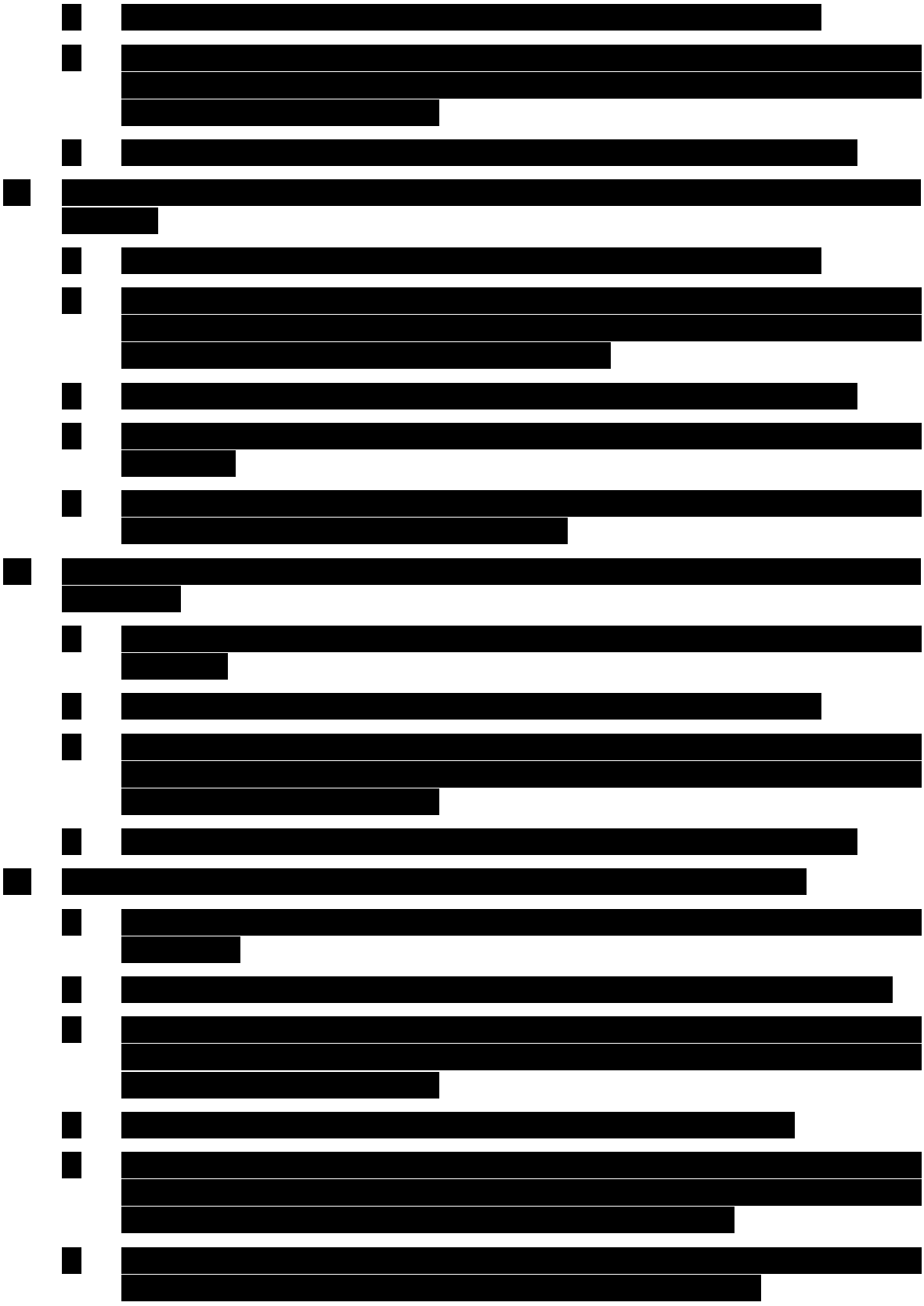

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314.7.5 CAPTURE OF SUSPECTS

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

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

## 314.8 REPORTING REQUIREMENTS

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

(a) The primary officer should complete appropriate crime/arrest reports.

(b) The Watch Commander shall ensure that an Allied Agency Vehicle Pursuit Report (form CHP 187A) is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary officer should complete as much of the required information on the form as is known and forward the report to the Watch Commander for review and distribution.

(c) After first obtaining the available information, a field supervisor shall promptly complete a Supervisor's Pursuit Report, briefly summarizing the pursuit, and submit it to his/her manager. This report should minimally contain the following information:

1. Date and time of pursuit
2. Length of pursuit
3. Involved units and officers
4. Initial reason for pursuit

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5. Starting and termination points
6. Disposition (arrest, citation), including arrestee information if applicable
7. Injuries and/or property damage
8. Medical treatment
9. Name of supervisor at scene
10. A preliminary determination whether the pursuit appears to be in compliance with this policy and whether additional review or follow-up is warranted

### 314.8.1 REGULAR AND PERIODIC PURSUIT TRAINING

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

(a)

(b)

(c)

### 314.8.2 POLICY REVIEW

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

## 314.9 APPLICATION OF VEHICLE PURSUIT POLICY

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

### 314.9.1 PERSONNEL AND TRAINING LIEUTENANT RESPONSIBILITY

It shall be the responsibility of the Personnel and Training Unit lieutenant to maintain the records of all pursuits and the forward all CHP form 187A's to the California Highway Patrol.

### 314.9.2 PURSUIT REVIEW

All pursuit reports shall be reviewed by the Police Chief, Assistant Police Chief, the Field Services Division Captain, and the Department driving team supervisor.

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# Officer Response to Calls

## 316.1 PURPOSE AND SCOPE

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

## 316.2 RESPONSE TO CALLS

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

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

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

## 316.3 REQUESTING EMERGENCY ASSISTANCE

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

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

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

### 316.3.1 NUMBER OF UNITS ASSIGNED

Normally, only [redacted] should respond to an emergency call Code-3 unless the Watch Commander or the field supervisor authorizes an additional unit(s).

## 316.4 INITIATING CODE 3 RESPONSE

If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately notify the Communications Center. Generally, only [redacted] should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, the Communications Center shall be notified and the Watch Commander or field supervisor will make a determination as to whether [redacted] driving Code-3 is appropriate.

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### 316.5 RESPONSIBILITIES OF RESPONDING OFFICERS

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

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

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

### 316.6 COMMUNICATIONS RESPONSIBILITIES

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

(a) Attempt to assign the closest available unit to the location requiring assistance

(b) Immediately notify the Watch Commander

(c) Confirm the location from which the unit is responding

(d) Notify and coordinate allied emergency services (e.g., fire and ambulance)

(e) Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated

(f) Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor

### 316.7 SUPERVISORY RESPONSIBILITIES

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

(a) The proper response has been initiated

(b) No more than those units reasonably necessary under the circumstances are involved in the response

(c) Affected outside jurisdictions are being notified as practical

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

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the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

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

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

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

## 316.8 FAILURE OF EMERGENCY EQUIPMENT

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

## 316.9 ASSISTANCE TO AGENCIES OUTSIDE THE CITY

When an officer is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Watch Commander. If the request is of an emergency nature, the officer shall notify the Communications Center before responding and thereafter notify a supervisor as soon as practical.

## 316.10 ALARM RESPONSE

### 316.10.1 ALARM RESPONSE PURPOSE AND SCOPE

This policy provides for the safe and appropriate response to alarms whether dispatched or self initiated.

### 316.10.2 COMMUNICATION'S RESPONSIBILITIES (ALL ROBBERY/OPEN BANK ALARMS)

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[redacted]

(k) In the event of an actual robbery, it is the responsibility of communications to advise neighboring agencies.

316.10.3 POLICE OFFICER RESPONSIBILITIES (ALL ROBBERY/OPEN BANK ALARMS)

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[redacted]

316.10.4 POLICE PROCEDURES WHEN SUSPECT(S) ARE INSIDE A BUSINESS

[redacted]

316.10.5 POLICE OFFICER AND COMMUNICATOR DUTIES (ALL OTHER ALARMS)

[redacted]

(e) In the event that an alarm device or horn has been activated within a vehicle, whether continuously activated or intermittently and repeatedly activated, and the owner cannot be located within 20 minutes of the officer's arrival and the police department has received a complaint, the vehicle may be towed per Vehicle Code §22651.5.

316.10.6 POLICE OFFICER AND COMMUNICATOR DUTIES (CIVIC CENTER ALARMS)

[redacted]

316.10.7 POLICE OFFICER AND COMMUNICATOR DUTIES (COUNCIL CHAMBER ALARM)

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[redacted]

[redacted]

### 316.11 FALSE INTRUSION ALARMS- POLICE AND COMMUNICATOR DUTIES

The Police Department will be tracking all false intrusion alarms by using the proper disposition code in CAD. It is the responding officer's responsibility to determine if an intrusion alarm is identified as false. An intrusion alarm is considered "false" when;

- An alarm signal is officially transmitted to the police.
- A police officer response is initiated.
- The responding officer determines that there is no evidence of illegal entry, or
- The responding officer determines that there is no evidence of attempted illegal entry, or
- No emergency exists.

Once the alarm has been identified as "false," the proper disposition code must be entered in CAD to assist with the management of the City's False Alarm Management Program. This will be done by the responding officer or the dispatch center.

**Patrol Officers Duties:**

The officer should clear the false alarm through CAD with a disposition code of "Z – false alarm." The officer should enter any applicable information into the call notes, such as; condition of the scene, pertinent information, or other observations. There may be times where the officer is assigned to another urgent matter and unable to make the CAD entry. Under those circumstances, the officer may request the communications center make the CAD entry with the applicable notes.

**Communicator Duties (Applicable to both intrusion and fire alarms):**

Alarm calls may be canceled by the original caller within three minutes of being received. The communicator will clear the event with the disposition of "X-Canceled." Alarms that are canceled after the three-minute window will be cleared with the "Z-False Alarm" CAD disposition code.

**Locations Designated as "Non-Response":**

The department's False Alarm Management Program, as regulated by the City, allows the department to place chronic false alarm offender locations on a non-response list after the sixth false alarm. This list will be monitored and audited by the department's Code Enforcement Officer.

When communications receives an alarm notification for a non-response location, the communicator will notify the patrol supervisor of the location and non-response status of the location. The communicator should relay any known circumstances that indicate activity consistent with a criminal offense is or has occurred. When there is no information of suspected criminal activity beyond the alarm, the supervisor should decline to send any patrol units to the non-

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response location. The supervisor should state over the radio, "Declined due to non-response status."

Patrol supervisors may elect to send units to any alarm activation at a non-response location if, in their opinion, the circumstances warrant a response.

Patrol units shall be dispatched and respond to a "panic" alarm activation at a non-response location. This response may be canceled by the resident or owner if done to the satisfaction of the department personnel.

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# Opioid Medical Aid and Response

## 317.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the Palo Alto Police Department for the utilization of nasal naloxone hydrochloride (Brand Name: Narcan) for proper prehospital administration. This program is designed to aid in reducing fatalities, which occur as a result of opiate overdose. Similar to Automated External Defibrillators, the program intends to provide first responders with another tool that may potentially save lives.

## 317.2 LEGAL PREMISES FOR IMPLEMENTATION

California law permits the administration of nasal naloxone by prehospital emergency medical care personnel, which include peace officers. The medical director of a local EMS agency may, pursuant to H&S § 1797.221, approve or conduct a trial study of the use and administration of naloxone hydrochloride or other opioid antagonists by any level of prehospital emergency medical care personnel. Existing law also allows for the dispensing of naloxone by a pharmacist over the counter. (AB:1535, SB:1438, H&S § 1797.189 paragraph (2) of subdivision (a)).

## 317.3 POLICY

It is the policy of the Palo Alto Police Department that officers be trained to provide emergency medical aid to persons experiencing an opioid overdose and facilitate an emergency medical response.

## 317.4 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Officers may administer opioid overdose medication in accordance with protocol specified by the licensed health care provider who provided the overdose medication for use by the member and (Civil Code § 1714.22; 22 CCR 100019):

(a) When trained and tested to demonstrate competence following initial instruction.

(b) When authorized by the medical director of the Local Emergency Medical Services Agency (LEMSA).

(c) In accordance with California Peace Officer Standards and Training (POST) standards.

## 317.5 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Officers who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Officers should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication should be removed from service and given to the Department Administrator (Watch Commander or Emergency Medical Supervisor).

Any officer administering opioid overdose medication should notifyCommunications as soon as possible and request a response by Emergency Medical Service (EMS) or the Palo Alto Fire Department. The officer shall notify their supervisor as soon as practicable.

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Personnel, who are trained in the use of naloxone, are authorized to use it without prior approval in cases where an opiate overdose is suspected.

Prior to administration of naloxone, officers must assess the victim for lack of breathing, pulse, and unresponsiveness. If the victim is not breathing and/or has no pulse, officers should immediately begin CPR/AED procedures. Officers should conduct a brief visual survey for any obvious signs, symptoms or evidence of drug use or exposure. Signs and symptoms may include, but are not limited to; the victim is unable to awaken with loud noise or rubbing firmly on the middle of the chest, slow or shallow breathing, and lack of breathing and/or pinpoint pupils.

Naloxone shall be administered by officers utilizing intranasal**method only as approved by the Santa Clara County EMS Agency and in accordance with training guidelines. Officers should use caution after administering naloxone as the subject may become agitated or combative.**

**If after 3 minutes no patient response to the naloxone is observed, a second dose may be administered if EMS personnel have not arrived on-scene.**

**On-scene medical personnel shall be informed when naloxone has been administered so further medical assessments can be made.**

### 317.6 OPIOID OVERDOSE MEDICATION REPORTING

Any use of opioid overdose medication requires a written report.

Responsibilities:

- Officer - Any officer administering opioid overdose medication shall detail it's use in an appropriate report
- Sergeant/Supervisor - The supervisor will ensure that the report contains the needed information to meet applicable state reporting requirements and note the usage on the Patrol Daily Report.
- Records Division - Staff will process the report and email a copy of the report to the Police Chief and Department Program Administrator within 48 hours.
- Department Program Administrator – The administrator will complete the Santa Clara County Emergency Medical Services (SCCEMS) Naloxone Use Report and turn that report in to SCCEMS within 96 hours.

### 317.7 OPIOID OVERDOSE MEDICATION TRAINING

The Palo Alto Police Department's Personnel and Training Unit should ensure initial and refresher training in compliance with POST Continuing Professional Training (CPT - 2 year cycle) is provided to members authorized to administer opioid overdose medication. Training should be coordinated with the EMS Agency and comply with the requirements in 22 CCR 100019 and any applicable POST standards (Civil Code § 1714.22).

Senate Bill 1438 authorizes Law Enforcement Personnel to administer naloxone to a person at risk of an opioid-related overdose without being subject to civil or criminal liability.

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Training is required before officers are authorized to administer naloxone. The training will consist of patient assessment (signs and symptoms of overdose), distinguishing between the different types of overdose, rescue breathing, the use of intra-nasal naloxone as described in this order and follow-up care.

The training delivery will be presented within the Enforcement First Aid/CPR mandated training class and through the viewing of the specific training video authorized by EMS Agency and distributed by Personnel and Training . Refresher training will be provided on a bi-annual basis through instructor led First Aid/CPR training or video training.

Only those sworn officers who have received and successfully completed the naloxone training course are allowed to administer naloxone.

### 317.8 CONTINUOUS QUALITY IMPROVEMENT

The Palo Alto Police Department is dedicated to continuous quality improvement with the storage, training and administration of naloxone by department personnel. In an effort to ensure appropriate administration of naloxone the Palo Alto Police Department will review 100% of administrations of the medication by department personnel. Personnel are required to follow the appropriate documentation standards prescribed within this policy and submit to their supervisor for review. All incident reports will be forwarded to the Santa Clara County EMS Agency via email within 96 hours of administration.

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# Canines

## 318.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment police services in the community, including but not limited to locating individuals and contraband and apprehending criminal offenders.

## 318.2 POLICY

It is the policy of this department to utilize patrol canines as a valuable supplement to police resources due to their superior senses of smell and hearing and their physical capabilities. Utilization of canines requires adherence to procedures that properly control their use-of-force potential and channel their specialized capabilities into legally acceptable crime prevention and control activities. A canine bite is a use-of-force, with the potential to cause serious injury; and is, notwithstanding policy 318, governed by applicable use of force case law, statute and policy.

It is the policy of the Palo Alto Police Department that teams of handlers and canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

## 318.3 ASSIGNMENT

Canine teams should be assigned to assist and supplement the Field Services Division to function primarily in assist or cover assignments. However, they may be assigned by the Watch Commander to other functions, such as routine calls for service, based on the current operational needs.

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

## 318.4 CANINE SUPERVISOR

The canine supervisor shall be appointed by and directly responsible to the Field Services Division Captain or the authorized designee.

The responsibilities of the supervisor include but are not limited to:

(a) Reviewing all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.

(b) Maintaining a liaison with the vendor kennel.

(c) Maintaining a liaison with command staff and functional supervisors.

(d) Maintaining a liaison with other agency canine coordinators.

(e) Maintaining accurate records to document canine activities.

(f) Recommending and overseeing the procurement of equipment and services for the teams of handlers and canines.

(g) Scheduling all canine-related activities.

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(h) Ensuring the canine teams are scheduled for regular training to maximize their capabilities.

## 318.5 REQUESTS FOR CANINE TEAMS

Field Services Division members are encouraged to request the use of a canine. Requests for a canine team from units outside of the Field Services Division shall be reviewed by the Watch Commander.

### 318.5.1 OUTSIDE AGENCY REQUEST

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

(a) Canine Teams shall not be used for any search and apprehension activities that do not involve a violent felony as defined by PC 667.5 or misdemeanor involving the possession or use of a deadly weapon

(b) A Palo Alto supervisor shall accompany the canine team to all outside agency assignments.

(c) The canine handler, a supervisor or the Watch Commander shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.

(d) Calling out off-duty canine teams is discouraged but may be authorized by the on duty Watch Commander.

(e) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.

(f) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

### 318.5.2 PUBLIC DEMONSTRATIONS

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

## 318.6 APPREHENSION GUIDELINES

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has committed, is committing, or is threatening to commit any violent felony as defined by PC 667.5 or misdemeanor involving the possession or use of a deadly weapon, and if any of the following conditions exist:

(a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any officer, or the handler.

(b) The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.

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

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

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

Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Watch Commander. Absent a change in circumstances that presents an imminent threat to officers, the canine or the public, or the existence of situation-specific and articulable facts that make an on-leash search not feasible or inherently unsafe (e.g., a suspect known to be secreted in a confined space, terrain that is inaccessible to the handler), such canine use should be conducted on-leash in order to minimize the likelihood the canine will bite or otherwise injure the individual.

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

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

### 318.6.1 PREPARATION FOR DEPLOYMENT

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

(a) The nature and seriousness of the suspected offense.

(b) Whether violence or weapons were used or are anticipated.

(c) The degree of resistance or threatened resistance, if any, the suspect has shown.

(d) The suspect’s known or perceived age.

(e) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.

(f) Any potential danger to the public and/or other officers at the scene if the canine is released.

(g) The potential for the suspect to escape or flee if the canine is not utilized.

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

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

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

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

### 318.6.2 WARNINGS AND ANNOUNCEMENTS

A clearly audible warning to announce that a canine will be released if the person does not surrender shall be made prior to each entry, deployment, or release of the canine. When a search involves entering multiple distinct properties, a warning should precede each such entry.The mere presence of a police canine can be an effective tool for facilitating the peaceful surrender of a suspect.

The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary. The canine handler should attempt to insure the warning was recorded on MAV or a body camera.

There may be situations where the canine handler is thrust into a rapidly evolving event, or an exigent circumstance, and immediate deployment of the canine is critical and there is insufficient opportunity to give a verbal announcement. The absence of an announcement is only permitted when specific and articulable facts exist to indicate that making the announcement is not feasible, or a delay in the apprehension would increase the risk of injury to the officers or the public. In such instances, the handler should announce the deployment of the canine once circumstances make it feasible to do so. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reasons why.

Prior to conducting searches of private property with a police canine, when time and circumstances allow, officers should obtain consent to do so. In obtaining consent, officers should:

(a) Verify the consenting party is the property owner or other responsible;

(b) Inform the consenting party that the search will involve a police canine;

(c) Ask the consenting party about any relevant conditions in/on the property, such as the presence of pools, animals, innocent parties, or other hazards;

(d) Advise the occupants to remain inside during the search

After conducting searches of private property with a police canine, when time and circumstances allow, officers should inform the property owner of the disposition of the search.

### 318.6.3 REPORTING DEPLOYMENTS, BITES AND INJURIES

Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor should be promptly notified and the injuries documented in a canine use report.

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The injured person shall be promptly treated by emergency medical services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the canine supervisor. Unintended bites or injuries caused by a canine should be documented in an administrative report.

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

Canines used by law enforcement agencies are generally exempt from impoundment and reporting requirements. However, the canine shall be made available for examination at any reasonable time if requested by the local health department. The canine handler shall also notify the local health department if the canine exhibits any abnormal behavior after a bite (Health and Safety Code § 121685). The handler will insure that the canine's up to date medical files, including required vaccinations, are on file with Personnel and Training.

### 318.6.4 CANINE LEASH CONTROL

Canines deployed in the field should, to the extent feasible, be on a leash and under the direct control of the canine handler.

Police canines searching off-leash are capable of self-deploying into an apprehension bite. Keeping this in mind, canine handlers should only search off-leash consistent with the apprehension guidelines set forth in 318.6.

Canines should not be used to search off-leash for non-violent offenders, or misdemeanants, unless authorized by the watch commander.

Canines should not be allowed to enter a yard, building, or other search area off-leash prior to a verbal announcement being made, unless the announcement is excused per Policy 318.6.2.

## 318.7 NON-APPREHENSION GUIDELINES

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

(a) Absent a change in circumstances that presents an imminent threat to officers, the canine, or the public, such applications should be conducted on-leash in order to minimize the likelihood the canine will bite or otherwise injure the individual, if located.

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

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(c) Throughout the deployment, the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.

(d) Once the individual has been located, the handler should place the canine in a down-stay or otherwise secure it as soon as reasonably practicable.

### 318.7.1 ARTICLE DETECTION

A canine trained to find objects or property related to a person or crime may be used to locate or identify articles. Absent a change in circumstances that present an immediate threat to officers, the canine or the public, or the existence of specific and articulable facts that make an on-leash search not feasible, such applications should be conducted on-leash in order to minimize the likelihood of unintended bites or injuries.

### 318.7.2 NARCOTICS DETECTION

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

(a) The search of vehicles, buildings, bags, and other articles.

(b) Assisting in the search for narcotics during a search warrant service.

(c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

A narcotics-detection trained canine will not be used to search a person for narcotics unless the canine is trained to passively indicate the presence of narcotics.

Absent a change in circumstances that present an immediate threat to officers, the canine or the public, or the existence of specific and articulable facts that make an on-leash search not feasible, such applications should be conducted on-leash in order to minimize the likelihood of unintended bites or injuries.

### 318.7.3 BOMB/EXPLOSIVE DETECTION

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

(a) Assisting in the search of a building, structure, area, vehicle, or article where an actual or suspected explosive device has been reported or located.

(b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).

(c) Preventive searches at special events, VIP visits, official buildings, and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.

(d) Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

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

Absent a change in circumstances that present an immediate threat to officers, the canine or the public, or the existence of specific and articulable facts that make an on-leash search not feasible, such applications should be conducted on-leash in order to minimize the likelihood of unintended bites or injuries.

### 318.8 HANDLER SELECTION

The minimum qualifications for the assignment of canine handler include:

(a) An officer/agent who is currently off probation.

(b) Residing in an adequately fenced, single-family residence (minimum 5-foot high fence with locking gates).

(c) A garage that can be secured and accommodate a canine vehicle when authorized by the canine supervisor or watch commander. The vehicle should not be visible from the street.

(d) Living within 1 hour travel time from the Palo Alto City limits.

(e) Agreeing to be assigned to the position for a minimum of five years.

(f) Ability to work night shifts with flexibility to adjust hours for special operations and call-outs.

(g) A willingness to devote off-duty time to the care, feeding and training of the police canine.

(h) Ability to pass a required psychological examination.

### 318.9 HANDLER RESPONSIBILITIES

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

The canine handler will be responsible for the following:

(a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.

(b) The handler shall maintain all Department equipment under his/her control in a clean and serviceable condition.

(c) When not in service, but authorized to take a canine vehicle home, the handler shall maintain the canine vehicle in a locked garage or other approved location that can be secured and concealed from the street and public view.

(d) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Palo Alto Police Department facility.

(e) Upon complaint or concern of the Canine Supervisor, handlers shall permit the canine supervisor to conduct spontaneous on-site inspections of affected areas of their homes

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as well as their canine vehicles to verify that conditions and equipment conform to this policy.

(f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine supervisor as soon as possible.

(g) When off-duty, the canine shall be in a kennel provided by the City at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.

(h) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.

(i) Under no circumstances will the canine be lodged at another location unless approved by the canine supervisor or Watch Commander.

(j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine supervisor or Watch Commander.

(k) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine supervisor so that appropriate arrangements can be made.

#### 318.9.1 CANINE IN PUBLIC AREAS

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

(a) A canine shall not be left unattended in any area to which the public may have access.

(b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also ensure that the unattended vehicle remains inhabitable for the canine.

(c) Barring extraordinary circumstances, the center partition door inside of the police vehicle shall be secured.

## 318.10 CANINE INJURY AND MEDICAL CARE

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine supervisor or Watch Commander as soon as practicable and appropriately documented.

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

Medical records shall be submitted by each handler to the canine supervisor in a timely manner. The canine supervisor is responsible for turning in medical records to the personnel and training division in a timely manner.

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## 318.11 TRAINING

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

The canine supervisor shall be responsible for scheduling periodic training for all Department members in order to familiarize them with how to conduct themselves in the presence of Departmentcanines. Because canines may be exposed to dangerous substances such as opioids, as resources are available, the canine supervisor should also schedule periodic training for the canine handlers about the risks of exposure and treatment for it.

All canine training should be conducted while on-duty unless otherwise approved by the canine supervisor or Watch Commander.

All canine handlers shall attend a POST approved canine handler liability course.

### 318.11.1 CONTINUED TRAINING

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

(a) Canine teams should receive training as defined in the current contract with the Palo Alto Police Department canine training provider.

(b) Canine handlers are encouraged to engage in additional training with approval of the canine supervisor.

(c) To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by this Department.

### 318.11.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

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

### 318.11.3 TRAINING RECORDS

All canine training records shall be maintained in the canine handler's training file. The canine handler is responsible for maintaining monthly training records. Training records shall be submitted by each handler to the canine supervisor on a monthly basis. The canine supervisor is responsible for turning in monthly training records to the personnel and training division on a monthly basis.

### 318.11.4 EXPLOSIVE TRAINING AIDS

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

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Explosive training aids designed specifically for canine teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids by canine teams is subject to the following:

(a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.

(b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.

(c) The canine supervisorhall be responsible to verify the explosive training aids on hand against the inventory ledger once each quarter.

(d) Only members of the canine team shall have access to the explosive training aids storage facility.

(e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or authorized second person on-scene will be designated as the secondary custodian.

(f) Any lost or damaged explosive training aids shall be promptly reported to the canine supervisor, who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

### 318.11.5 CONTROLLED SUBSTANCE PROCEDURES

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

(a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.

(b) The weight and test results shall be recorded and maintained by this Department.

(c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.

(d) All controlled substance training samples will be inspected, weighed and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine supervisor with a copy forwarded to the dispensing agency.

(e) All controlled substance training samples will be stored in locked, airtight and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.

(f) The canine supervisor shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.

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(g) Any unusable controlled substance training samples shall be returned to the Property and Evidence Section or to the dispensing agency.

(h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

### 318.11.6 CONTROLLED SUBSTANCE TRAINING AIDS

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

The Chief of Police or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the Palo Alto Police Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this [department/office] for training purposes, provided the controlled substances are no longer needed as criminal evidence.

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

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

### 318.11.7 TRAINING AIDS

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

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# Domestic Violence

## 320.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this Department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

## 320.2 POLICY

The Palo Alto Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

In addition to the policies and procedures contained in this Domestic Violence Policy, all personnel are required to read and follow the Santa Clara County Protocols Section 3 - Domestic Violence Protocol for Law Enforcement, when investigating and responding to domestic violence investigations.

## 320.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

## 320.4 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

(a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.

    1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).

(b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of the victim's right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).

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(c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):

1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
4. Penal Code § 646.9 (stalking)
5. Other serious or violent felonies specified in Penal Code § 1270.1

(d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:

1. The intent of the law to protect victims of domestic violence from continuing abuse.
2. The threats creating fear of physical injury.
3. The history of domestic violence between the persons involved.
4. Whether either person acted in self-defense.

(e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

### 320.4.1 ARRESTING OFFICERS' RESPONSIBILITIES REGARDING FIREARMS

If a suspect is arrested, officers shall (Penal Code § 273.76):

(a) Query the Automated Firearms System through the California Law Enforcement Telecommunications System (CLETS) for any firearms owned or possessed by the arrestee.

(a) The investigating or filing officer shall include a copy of the Automated Firearms System report when filing the case with the district attorney or prosecuting city attorney.

(b) Ask the arrestee, victim, and any other household members, if applicable, about any firearms owned or possessed by the arrestee.

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(c) Ensure that any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search is taken into temporary custody pursuant to Penal Code § 18250.

(d) Document in the arrest report the detailed actions taken required by Penal Code § 273.76.

## 320.5 REPORTS AND RECORDS

(a) A written domestic violence incident report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents, including notations for any court order served that are subject to the report requirements (Penal Code § 13730; Code of Civil Procedure § 527.12).

(b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.

(c) Officers who seize any firearm, ammunition, or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)).

## 320.6 RECORD-KEEPING AND DATA COLLECTION

The Technical Services Division shall maintain records of court orders related to domestic violence and the service status of each order (Penal Code § 13710).

Additionally, records shall be maintained on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation. This information is to be reported monthly to the California Department of Justice (DOJ). The Technical Services Division Manager has the responsibility to ensure that records are maintained and the required information is reported to the DOJ (Penal Code § 13730).

## 320.7 SERVICE OF COURT ORDERS

(a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).

(b) A temporary restraining order, emergency protective order, or an order issued after a hearing shall, at the request of the petitioner, be served on the restrained person

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by an officer who is present at the scene of a reported domestic violence incident or when the officer receives a request from the petitioner to provide service of the order (Family Code § 6383; Penal Code § 13710).

(c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)).

(d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).

1. An officer should ensure that the Technical Services Division is notified of any firearm obtained for entry into the Automated Firearms System (Family Code § 6383) (see the Technical Services Division Policy for additional guidance).

(e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide the person with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

## 320.8 PUBLIC ACCESS TO POLICY

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

## 320.9 DECLARATION IN SUPPORT OF BAIL INCREASE

Any officer who makes a warrantless arrest for a felony or misdemeanor violation of a domestic violence restraining order shall evaluate the totality of the circumstances to determine whether reasonable cause exists to seek an increased bail amount. If there is reasonable cause to believe that the scheduled bail amount is insufficient to assure the arrestee's appearance or to protect the victim or family member of a victim, the officer shall prepare a declaration in support of increased bail (Penal Code § 1269c).

## 320.10 DOMESTIC VIOLENCE DEATH REVIEW TEAM

This Department should cooperate with any interagency domestic violence death review team investigation. Written and oral information relating to a domestic violence death that would otherwise be subject to release restrictions may be disclosed to the domestic violence death review team upon written request and approval of a supervisor (Penal Code § 11163.3).

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# Gun Violence Restraining Orders

## 321.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders (Penal Code § 18108).

### 321.1.1 DEFINITIONS

Definitions related to this policy include:

**Gun violence restraining order** - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms or ammunition, including an ammunition magazine (Penal Code § 18100).

## 321.2 POLICY

It is the policy of the Palo Alto Police Department to petition for and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the [Department/Office] pursuant to such orders.

## 321.3 GUN VIOLENCE RESTRAINING ORDERS

An officer who reasonably believes a person is a present danger to self or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from the officer's supervisor to petition the court for a gun violence restraining order.

Officers petitioning the court should use the forms established by the Judicial Council (Penal Code § 18105). The petition should describe the number, types, and locations of any firearms and ammunition that the officer believes to be possessed or controlled by the person (Penal Code § 18107). The petition should also describe why less-restrictive alternatives are ineffective or inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, an officer may submit the petition electronically or orally request a temporary order (Penal Code § 18122; Penal Code § 18140).

### 321.3.1 ADDITIONAL CONSIDERATIONS

Officers should also consider requesting permission to petition the court for a gun violence restraining order (Penal Code § 18108):

(a) When responding to a residence that is associated with a firearm registration or record.

(b) When responding to any call or incident when a firearm is present or when one of the involved parties owns, possesses, or expresses an intent to acquire a firearm.

(c) During a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions, if that person owns or possesses a firearm.

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Officers should consider obtaining a mental health evaluation if the encounter involves a situation where there is a reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themself or another person by having custody or control of a firearm or expresses intent to obtain a firearm (see the Mental Illness Commitments Policy) (Penal Code § 18108).

## 321.4 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

An officer serving any gun violence restraining order shall:

(a) Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control (Penal Code § 18160).

(b) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).

(c) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).

(d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).

(e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).

(f) As soon as practicable, but by the end of his/her shift, submit proof of service to the Records Manager for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The officer should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

### 321.4.1 TEMPORARY EMERGENCY GUN VIOLENCE RESTRAINING ORDERS

An officer requesting a temporary emergency gun violence restraining order shall (Penal Code § 18140):

(a) For oral requests, sign a declaration under penalty of perjury reciting the oral statements provided to the judicial officer and memorialize the order of the court on the form approved by the Judicial Council.

(b) Serve the order on the restrained person if the person can be reasonably located.

(c) Forward a copy of the order to the Records Manager for filing with the court and appropriate databases.

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### 321.5 SEARCH WARRANTS

If a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

(a) The officer serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.

(b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:

1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.
2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.

(c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the officer shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

### 321.6 RECORDS MANAGER RESPONSIBILITIES

The Records Manager is responsible for ensuring:

(a) Proof of service of any gun violence restraining order served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).

(b) Temporary orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).

(c) Copies of temporary orders are filed with the court as soon as practicable, but no later than three court days, after issuance (Penal Code § 18140).

(d) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the [Department/Office] are properly maintained (Penal Code § 18120).

(e) Any relinquishment of firearm rights form received from the court is entered into the California Restraining and Protective Order System within one business day of receipt (Penal Code § 18115).

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### 321.7 COURT-ORDERED FIREARMS AND AMMUNITION SURRENDERS

Authorized members shall accept firearms and ammunition from any individual who is the subject of a gun violence restraining order. The member receiving any firearm or ammunition shall:

(a) Record the individual's name, address and telephone number.

(b) Record the serial number of the firearm.

(c) Prepare an incident report and property report.

(d) Provide a property receipt to the individual who surrendered the firearms and ammunition.

(e) Package and submit the firearms and ammunition in accordance with the Property and Evidence Policy.

### 321.8 STORAGE AND RELEASE OF FIREARMS AND AMMUNITION

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be stored in accordance with the Property and Evidence Policy.

Firearms and ammunition shall be returned to the restrained person upon the expiration of the order in accordance with Penal Code § 18120 and the Property and Evidence Policy (Penal Code § 18108).

### 321.9 POLICY UPDATES

Policy added: 5-3-17

Policy updated: 3-18-20

Policy Updated 1-13-21

Policy Updated 4/20/2022

### 321.10 GUN VIOLENCE RESTRAINING ORDER COORDINATOR

The Chief of Police will appoint a gun violence restraining order coordinator. The responsibilities of the coordinator include:

(a) Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by [department/office] members, also including procedures for requesting and serving (Penal Code § 18108):

1. A temporary emergency gun violence restraining order.
2. An ex parte gun violence restraining order.
3. A gun violence restraining order issued after notice and hearing.
4. Renewal orders.

(b) Developing and maintaining factors to consider when assessing the need to seek an order, including (Penal Code § 18108; Penal Code § 18155):

1. Whether threats have been made, and if so, whether the threats are credible and specific.

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2. Whether the potential victim is within close proximity.
3. Whether the person has expressed suicidal tendencies.
4. Whether the person has access to firearms.
5. The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or monitored release.
6. The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to themselves or others.
7. Any upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.
8. Whether the person has any history of drug or alcohol abuse.

(c) Developing and maintaining procedures for the receipt and service of orders consistent with the requirements of Penal Code § 18115; Penal Code § 18120; Penal Code § 18135; Penal Code § 18140; and Penal Code § 18160. Procedures should include:

1. Evaluation of an order to determine appropriate service and necessary precautions (see the Warrant Service Policy and the Operations Planning and Deconfliction Policy).
2. Forwarding orders to the Records Manager for recording in appropriate databases and required notice to the court, as applicable.
3. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate (Penal Code § 18108).
4. Seizure procedures of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
5. Verification procedures for the removal of firearms and ammunition from the subject of a gun violence restraining order (Penal Code § 18108).

(d) Coordinating with the Personnel and Training Lieutenant to provide officers who may be involved in petitioning for or serving orders with training on such orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.

(e) Reviewing each petition and any associated court documents for an order prepared by members, for compliance with this policy, [department/office] procedures, and state law.

(f) Developing and maintaining procedures for members to accept voluntarily surrendered prohibited items at times other than when an order is being served by the [Department/Office].

1. Procedures should include preparing and providing a receipt identifying all prohibited items to the person surrendering the items.

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(g) Coordinating review of notices of court hearings and providing notice to the appropriate officer of the hearing date and the responsibility to appear and participate in the evidence presentation process (Penal Code § 18108).

(h) Coordinating with the Personnel and Training Lieutenant to ensure officers remain current with the following (Penal Code § 18108):

1. Types of evidence a court considers when determining whether grounds exist for the issuance of a gun violence restraining order as provided in Penal Code § 18155 (Grounds for gun violence restraining order; examination by court).
2. The different procedures and protections afforded by different types of firearm-prohibiting emergency protective orders that are available to law enforcement petitioners.

(i) Establishing standards and procedures for addressing violations of a gun violence restraining order (Penal Code § 18108).

(j) Establishing procedures for officers to provide information about mental health referral services during contact with persons exhibiting mental health issues (Penal Code § 18108).

## 321.11 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS

The Investigative Services supervisor is responsible for the review of a gun violence restraining order (including temporary or ex parte orders) obtained by the [Department/Office] to determine if renewal should be requested within the time prescribed by law (Penal Code § 18190).

## 321.12 POLICY AVAILABILITY

The Chief of Police or the authorized designee shall be responsible for making this policy available to the public upon request (Penal Code § 18108).

## 321.13 TRAINING

The Personnel and Training Lieutenant should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

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# Search and Seizure

## 323.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Palo Alto Police Department personnel to consider when dealing with search and seizure issues.

## 323.2 POLICY

It is the policy of the Palo Alto Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

## 323.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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### 323.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

(a) Members of this department will strive to conduct searches with dignity and courtesy.

(b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.

(c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.

(d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.

(e) When the person to be searched is of the opposite sex as the searching officer, a Palo Alto Police Department officer of the same sex as the subject should conduct the search if one is available.If one is not available, it is recommended that the search be witnessed by another officer, or conducted within view of the Department's Mobile Audio Video (MAV) system.

### 323.5 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- Reason for the search
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
- What, if any, injuries or damage occurred
- All steps taken to secure property
- The results of the search, including a description of any property or contraband seized
- Documentation may consist of a police report or CAD entry if no report was written.

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

### 323.6 EXECUTION OF SEARCH WARRANTS

It shall be the policy of the Palo Alto Police Department that the execution of search warrants and parole or probation searches be conducted on a safety-first basis. The safety of involved personnel shall take precedence over the apprehension of suspects or recovery of contraband.

#### 323.6.1 THREAT ASSESSMENT

Few responsibilities pose as high a danger to police, suspects or citizens as the execution of search warrants, parole/probation searches and planned arrests. The level of response to these situations will be based on intelligence gathered by the case agent.

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### 323.6.2 SEARCH WARRANTS FOR DOCUMENTS

The lowest level involving officer safety or tactics is any search warrant that is served at any business or to any professional person for the purposes of securing documentary evidence. Although no tactical response is necessary, basic officer safety principles should be considered.

### 323.6.3 HOTEL CHECKS/PALO ALTO WARRANT SERVICE

This level of arrest is typically served by the Field Services Division and is most often generated through in house warrants, hotel registry checks, or outside agency requests. This level typically involves misdemeanor crimes, traffic-related offenses and municipal code violations or the service of warrants at hotel rooms, offices or residences where it is not anticipated that a lengthy tactical search will be required.

Officers shall check the backgrounds of persons sought for the following:

(a) Past violence or weapons history;

(b) Address check for associates;

(c) History of mental instability.

If the person's background includes violence or weapons, the officer shall contact the supervisor to determine the appropriate level of police response.

[redacted]

### 323.6.4 FELONY/WEAPONS/OTHER ARREST & SEARCH WARRANTS

Warrants that fall into one of the below categories must have a comprehensive threat assessment conducted and an Operations Plan unless exigent circumstances exist for immediate service:

(a) Felony or weapon violation;

(b) Background of suspect includes violence or weapons;

(c) Suspect has a history of mental instability;

(d) Arrest of multiple suspects;

(e) Narcotics violations;

(f) Information that indicates a serious threat to officers;

(g) Any search warrant;

(h) Supervisor deems it necessary.

A comprehensive "Threat Assessment" Checklist is a forced response process with assigned point values to specific areas of concern. The accumulation of points, indicate the type and level of response by this department.

[redacted]

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[redacted]

Although points are assigned on the Threat Assessment Checklist, a supervisor may consult the SWAT Commander due to any safety consideration or concern.

323.6.5 PROCEDURE

(a) **SUPERVISION**: No search warrant, parole or probation search shall be executed without the presence of a sergeant or his/her designee.

(b) **BACKGROUND**: During the development of a search warrant, and prior to a parole or probation search, the investigating officer shall prepare a file containing all available relevant information such as criminal history information, photographs, pertinent reports, driver's license information, and any other information deemed necessary. Additionally, any suspects associated with the premises to be searched shall be checked through the Department of Justice for any record of gun registration (completion of threat assessment is mandatory).

(c) **COMMUNICATION**: All personnel participating in the execution of a search warrant shall have a portable radio and all communications will be conducted on the same radio frequency. Whenever possible, Communications personnel should attend briefings.

(d) **PERSONNEL**: As a general rule, [redacted] should be utilized in the execution of any search warrant. This shall not prohibit the use of more or less officers when the supervisor considers it appropriate. A uniformed officer will be used to assist with initial entry to the premises to be searched.

(e) **PLAN**: Prior to the execution of any search warrant, an operations order shall be prepared outlining the plan of action, the personnel involved, specific assignments, and all relevant information pertaining to the premises to be searched and any associated subjects. The operation order should follow the SMEAC format: SITUATION, MISSION, EXECUTION, ASSIGNMENTS, COMMAND AND CONTROL. To ensure the safety of all personnel involved, the following guidelines will be adhered to:

[redacted]

3. The operation supervisor is responsible for issuing a Code-4 at the scene when the situation has been safety stabilized.

(f) **BRIEFING**: Each search warrant, parole/probation search, or arrest warrant will be preceded by a briefing. In the briefing the case agent will review all the intelligence that has been gathered as well as outline the current investigation.

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[redacted]

(g) **GUNFIRE**: [redacted]

(h) **CURRENT SUSPECT/RESIDENCE INFORMATION**: Every attempt shall be made to obtain the most current information available about the persons and/or place to be searched [redacted]

(i) **EQUIPMENT**

1. Protective armor shall be worn by all officers involved in the execution of a search warrant, parole or probation search;
2. Any non-uniformed personnel involved in the execution of any search warrant or parole and probation search shall wear badges and easily identifiable jackets or caps.

(j) **FIREARMS**: All officers involved in the execution of a search warrant shall be properly armed with approved sidearms. Any use of firearms shall be in accordance with Palo Alto Police Department General Order §304.

(k) **NOTIFICATION**: When any search warrant, parole or probation search is anticipated, the supervisor will notify his/her respective Division Captain, utilizing the proper chain of command. The notification shall include a copy of the operation order as well as state who the responsible authority is for the search. It is the Division Captain's responsibility to assess the plan, make recommendations or modifications and determine if it is necessary to notify the Police Chief.

1. When searches are planned outside the Palo Alto City limits, the supervisor shall contact the appropriate agency of the time and location of the search. A representative of the agency will be requested to participate in the search.

(l) **THE SEARCH**

1. Prior to the actual search, the supervisor shall attempt to verify that the premises listed in the search warrant are, in fact, the premises to be searched;
2. Prior to using force to gain entrance to the location to be searched, the supervisor or previously designated officer shall provide notice of his/her authority and purpose to persons inside the residence per Penal Code §1531 and give them a reasonable amount of time to respond;

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3. Prior to any search, an "evidence collector" will be designated. This individual shall take possession of packages and seal and mark all items seized in accordance with proper collection techniques;
4. Once the premises are secured, the search shall take place in an orderly progression with minimum disruption to the premises;
5. A copy of the search warrant shall be given to occupants of the premises or left in a conspicuous place if the premises are vacant;
6. All searching shall be conducted in a courteous and non-destructive manner. Any disarray created by the search shall be minimized;
7. When all items listed in the warrant have been found, or when it reasonably appears that the listed items are not on the premises, the search will be terminated;
8. Per Penal Code §1535, a receipt will be prepared of all items seized prior to departure and will be reviewed with the occupant, if present. The receipt is to be signed by the designated evidence collector. A copy of the receipt shall be given to the occupant or left in a conspicuous location on the premises;
9. A complete record of the execution of the search shall be made including the time of search, all circumstances of the entry, and names of persons present (both occupants of premises and police personnel);
10. Documentation and photographs shall be taken of any damage done during the execution of the search/arrest warrant (i.e. broken doors, windows). An option, if available, is to video tape the scene before and after the search.

(m) **SEIZURE OF MONIES**: Any monies found and/or seized as a result of the search shall be immediately called to the attention of the supervisor. All monies found or seized will be handled in accordance with current Departmental policy;

(n) **COMPLETION OF SEARCH**: Upon completion of the search and departure from the scene, the on-duty Watch Commander will be notified;

(o) **DE-BRIEF**: After the operation is completed the supervisor should conduct a de-briefing with all involved personnel.

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# Temporary Custody of Juveniles

## 325.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Palo Alto Police Department (34 USC § 11133).

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

### 325.1.1 DEFINITIONS

Definitions related to this policy include:

**Juvenile non-offender** - An abused, neglected, dependent, or alien juvenile who may be legally held for the juvenile's own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for the juvenile's protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person. Juveniles 11 years of age or younger are considered juvenile non-offenders even if they have committed an offense that would subject an adult to arrest.

**Juvenile offender** - A juvenile 12 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (Welfare and Institutions Code § 602). It also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 CFR 31.303).

**Non-secure custody** - When a juvenile is held in the presence of an officer or other custody employee at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (Welfare and Institutions Code § 207.1; 15 CCR 1150).

**Safety checks** - Direct, visual observation personally by a member of this [department/office] performed at random intervals within time frames prescribed in this policy to provide for the health and welfare of juveniles in temporary custody.

**Secure custody** - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object (15 CCR 1146).

Examples of secure custody include:

(a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.

(b) A juvenile handcuffed to a rail.

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(c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.

(d) A juvenile being processed in a secure booking area when a non-secure booking area is available.

(e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

(f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

(g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

**Sight and sound separation** - Located or arranged to prevent physical, visual, or auditory contact that is more than brief or inadvertent.

**Status offender** - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. This includes the habitually disobedient or truant juvenile under Welfare and Institutions Code § 601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

## 325.2 POLICY

The Palo Alto Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Palo Alto Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

## 325.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Palo Alto Police Department:

(a) Unconscious

(b) Seriously injured

(c) A known suicide risk or obviously severely emotionally disturbed

(d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).

(e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation (15 CCR 1142; 15 CCR 1151).

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These juveniles should not be held at the Palo Alto Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release, or a transfer is completed (15 CCR 1142).

#### 325.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

When emergency medical attention is required for a juvenile, medical assistance will be called immediately. The Watch Commander shall be notified of the need for medical attention for the juvenile. [Department/Office] members should administer first aid as applicable (15 CCR 1142).

#### 325.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

[Department/Office] members should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill themself, or any unusual behavior which may indicate the juvenile may harm themself while in either secure or non-secure custody (15 CCR 1142).

### 325.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Palo Alto Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the Palo Alto Police Department without authorization of the arresting officer's supervisor or the Watch Commander. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of the juvenile's entry into the Palo Alto Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1).

#### 325.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Palo Alto Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (34 USC § 11133; Welfare and Institutions Code § 206).

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in Welfare and Institutions Code § 602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination (Welfare and Institutions Code § 602.1).

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### 325.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

### 325.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Palo Alto Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Generally, a juvenile offender may be taken into custody when authorized by a court order or when there is probable cause to believe the juvenile has committed an offense that would subject an adult to arrest (Welfare and Institutions Code § 625).

A juvenile offender who is 14 years of age or older and taken into custody for committing or attempting to commit a felony with a firearm shall not be released and be transported to a juvenile facility (Welfare and Institutions Code § 625.3).

A juvenile offender suspected of committing murder, a sex offense described in Welfare and Institutions Code § 602(b) that may subject the juvenile to criminal jurisdiction under Welfare and Institutions Code § 707, or a serious or violent felony should be referred to a probation officer for a decision on further detention.

In all other cases the juvenile offender may be:

(a) Released upon warning or citation.

(b) Released to a parent or other responsible adult after processing at the [Department/ Office].

(c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.

(d) Transported to the juvenile offender's home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

In determining which disposition is appropriate, the investigating officer or supervisor shall prefer the alternative that least restricts the juvenile's freedom of movement, provided that alternative is compatible with the best interests of the juvenile and the community (Welfare and Institutions Code § 626).

Whenever a juvenile offender under the age of 14 is taken into custody, the officer should take reasonable steps to verify and document the child's ability to differentiate between right and wrong, particularly in relation to the alleged offense (Penal Code § 26).

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### 325.5 ADVISEMENTS

Officers shall take immediate steps to notify the juvenile's parent, guardian, or a responsible relative that the juvenile is in custody, the location where the juvenile is being held, and the intended disposition (Welfare and Institutions Code § 627).

Whenever a juvenile is taken into temporary custody, the juvenile shall be given the *Miranda* rights advisement regardless of whether questioning is intended. This does not apply to juvenile non-offenders taken into temporary custody for their safety or welfare (Welfare and Institutions Code § 625).

Anytime a juvenile offender is placed in secure custody, the juvenile offender shall be informed of the purpose of the secure custody, the length of time the secure custody is expected to last, and of the maximum six-hour limitation (Welfare and Institutions Code § 207.1).

Juveniles taken into custody for an offense shall immediately be advised (or at least within one hour from being taken into custody, if possible) that they may make three telephone calls: one call completed to their parent or guardian; one to a responsible relative or their employer; and another call completed to an attorney. The calls shall be at no expense to the juvenile when completed to telephone numbers within the local calling area. Juveniles should be asked whether they are a caregiver and provided two more phone calls in the same manner as provided to adults in the Temporary Custody of Adults Policy (Welfare and Institutions Code § 627; Penal Code § 851.5).

### 325.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the [Department/Office], the custody shall be promptly and properly documented in the juvenile custody log, including:

(a) Identifying information about the juvenile.

(b) Date and time of arrival and release from the Palo Alto Police Department (15 CCR 1150).

(c) Watch Commander notification and approval to temporarily hold the juvenile.

(d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.

(e) Any changes in status (e.g., emergency situations, unusual incidents).

(f) Time of all safety checks.

(g) Any medical and other screening requested and completed (15 CCR 1142).

(h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1; 15 CCR 1145).

(i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Watch Commander shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

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### 325.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the [Department/Office] (34 USC § 11133; Welfare and Institutions Code § 207.1; Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Palo Alto Police Department (trained in the supervision of persons in custody) shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact (15 CCR 1144).

### 325.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Palo Alto Police Department shall ensure the following:

(a) The Watch Commander should be notified if it is anticipated that a juvenile may need to remain at the Palo Alto Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the Palo Alto Police Department more than six hours.

(b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.

(c) Personal safety checks and significant incidents/activities shall be noted on the log.

(d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.

    1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.

    2. This does not apply to surreptitious and legally obtained recorded interrogations.

(e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).

(f) Juveniles shall be provided sanitary napkins, panty liners, and tampons as requested (15 CCR 1143).

(g) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).

(h) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).

(i) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.

(j) Juveniles shall have privacy during family, guardian, and/or lawyer visits (15 CCR 1143).

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(k) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).

(l) Blankets shall be provided as reasonably necessary (15 CCR 1143).

1. The supervisor should ensure that there is an adequate supply of clean blankets.

(m) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.

(n) Juveniles shall have adequate furnishings, including suitable chairs or benches.

(o) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.

(p) Juveniles shall have access to language services (15 CCR 1143).

(q) Juveniles shall have access to disability services (15 CCR 1143).

(r) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse (15 CCR 1142).

While held in temporary custody, juveniles shall be informed in writing of what is available to them pursuant to 15 CCR 1143 and it shall be posted in at least one conspicuous place to which they have access (15 CCR 1143).

## 325.9 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

## 325.10 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Palo Alto Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Watch Commander. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others (15 CCR 1142).

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse (15 CCR 1142).

## 325.11 OFFICER RESPONSIBILITIES

(a) In any case where a juvenile is taken into temporary custody for either W&I § 601 or W&I § 602, as set forth in W&I § 625, the juvenile should be promptly advised of his/her Miranda Rights to ensure the admissibility of any spontaneous statements, even when there is no interrogation. Parents may not invoke Miranda for their child.

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(b) Take immediate steps to notify parents/guardians per W&I § 308(a) and W&I § 627(a). The investigating officer shall notify the parent or guardian of a minor when their child has been detained or questioned by police pursuant to a criminal investigation. The officer should explain the events to the parent so that they understand the reason for the contact and where the minor has been taken or is being held. In the instance of a detention or investigation in which a minor is questioned but not arrested, the officer shall have the option or discretion of notifying the parent at the conclusion of the incident, especially if there is a reasonable concern that early notification would jeopardize the investigation or compromise officer safety.

(c) Allow the juvenile to make the necessary phone calls within one hour, as set forth in W&I § 308(b) and W&I § 627(b). No later than one hour after being taken into custody, the minor shall be advised that he/she has the right to make two completed phone calls from the place where the minor is being held. One to a parent or guardian, a responsible relative, or employer, and another call to an attorney. The only exception to this requirement will be when the minor is physically unable to make the phone calls. Any public officer or employer who willfully deprives a minor taken into custody of his right to make such telephone calls is guilty of a misdemeanor.

(d) When responding to the schools, absent an emergency or exigent circumstances, officer(s) shall notify a school administrator, preferably the Principal, Vice-Principal or Dean of Students prior to contacting a juvenile on campus. The officer(s) shall advise the school administrator of the purpose of the contact and cooperatively develop a clear plan to deal with the situation since the school is responsible for the child during school hours. Generally, for matters that are non-criminal in nature, school staff should take the lead on mediating these issues with the responding officer providing appropriate assistance. The intent of this is to avoid unnecessarily escalating a counseling/behavioral matter to a criminal level. Upon completing a student contact for any action on a school campus, the officer(s) shall let the school administrator know the disposition of the contact before leaving campus. The officer should use his/her discretion when interviewing a child on a school campus. If an interview is conducted on a school campus, the officer shall contact the parents immediately after the interview. Officers should consult with school administrators and be aware of their family reporting requirements per PAUSD/school policy.

### 325.11.1 JUVENILE CONTACT REPORT (JCR)

Police officers shall complete a JCR in the following instances:

(a) When the juvenile is taken to Juvenile Hall. All juvenile bookings require a statement of probable cause, for each on-view law violation, summarized on the JCR;

(b) When the juvenile is issued a citation for an offense that is not traffic related or not a municipal code violation;

(c) When the juvenile is taken into protective custody.

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### 325.11.2 PHOTOGRAPHING JUVENILES

The photographing of juveniles shall not be arbitrary or indiscriminate but shall meet the minimum standard or criteria of reasonable suspicion required for a lawful detention based on articulable facts. Using discretion photographs may be taken in the following instances:

(a) When the juvenile is lawfully detained or arrested for a law violation;

(b) When fingerprints or photographs are needed to establish or verify identity;

(c) When the arrested juvenile is a suspect in an additional case, and a photographs is needed for a photo line-up;

(d) When the supervisor or watch commander deems it necessary.

### 325.11.3 FINGERPRINTING JUVENILES

All sworn personnel will be trained in the use of the AFIS/Live Scan Machine. The fingerprinting of a juvenle shall occur in accordance with the guidelines set forth in the Santa Clara County Protocols Section 14 - Juvenile Fingerprint/Data Entry Into CJIC.

(a) Juvenile information may not be entered into the CJIC database without positive identification by fingerprints verified through AFIS.

(b) All juveniles who are arrested and fingerprinted must have their associated PFN and CEN number recorded on a JCR which is forwarded to the Juvenile Probabtion Department.

Juveniles arrested for the following should be fingerprinted:

(a) **FELONY VIOLATIONS**

1. All juveniles arrested on any felony violation shall be fingerprinted using the AFIS/Live Scan Machines prior to being released or booked into Juvenile hall.
2. An exception to this is if the juvenile is under the influence of alcohol or drugs and the supervisor deems it necessary to release the juvenile at the hospital. If this were to occur, the juvenile's parents should be referred to the TSD Records Unit to ensure that the juvenile is fingerprinted at a later time.

(b) **MISDEMEANOR VIOLATIONS**

1. A juvenile arrested on a misdemeanor offense shall not be fingerprinted without a compelling reason unless the offense is Penal Code §243.4 (a), (b), (c), (d) or (e), §243.4 (e) (1), §314.1 PC, §314.2 PC, or §417.

### 325.11.4 DISPOSITION OF JUVENILE OFFENDERS

In no event shall a juvenile be released on his/her own if the case falls under W&I § 300, those juveniles who have suffered, or there is a substantial risk that the child will suffer serious physical harm inflicted non-accidentally upon the child by the child's parent or guardian.

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**Status offenders**, those juveniles who violate W&I § 601, are those who refuse to obey the reasonable and proper orders or directions from parents or guardians, school officials, and those who run away from home. Prior to legislation enacted in 1976, juveniles with these behaviors were detainable. Legislation prohibiting detention for these offenses also recommended that local governments establish a system of services for these juveniles to help keep them safe and out of trouble. In response, referral to the following agencies have proved to be beneficial:

- Pacific Clinics
- Family and Children Services
- Adolescent Counseling Services
- KARA (Grief Support)
- The Welcoming Center
- Bill Wilson Center

**Criminal offenders**, those juveniles who violate W&I § 602, are those who violate any law of this state other than those that fall under W&I § 601. In the majority of incidents, the juvenile will be cited and released back to a parent or guardian, or with the permission of a parent or guardian, released back to school officials.

Due to juvenile detention reform in Santa Clara County, only those juveniles involved in serious crimes will be allowed admittance into Juvenile Hall. Officers shall release juvenile offenders, including release to parents, release with a written promise to appear, release to a diversion program, or release to alternative community resources, unless one or more of the following circumstances exist:

(a) The juvenile is 14 years old, or older and commits a violation specified in 707(b) W

(b) An outstanding warrant exists for the juvenile, or a probation officer directs that the juvenile be incarcerated;

(c) The release of the juvenile would create a continuing threat to public safety and/or an individual;

(d) The crime is violent, serious, or involves a firearm;

(e) Any crime involving domestic violence;

(f) When satisfactory evidence of identity cannot be established;

(g) When a parent or guardian cannot be located

(h) Release of the juvenile would compromise an investigation

(i) The juvenile demands to be taken before a magistrate.

Exceptions for non release for a crime that does not fit the above listed criteria must be approved by a supervisor and documented on a JCR and arrest report.

**Community Alternative to Incarceration**

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(a) Palo Alto Police Officers can refer WI § 602 offenders who are not eligible to be admitted to juvenile hall to the Bill Wilson Center when the minor's parents are not available or not willing to accept their minor :

**Documentation**

**All in-custody reports shall be completed no later than the end of the shift. The completed report is either faxed, or delivered, to the Probation Department. Under unusual circumstances, the patrol supervisor may authorize the completion of the report to be made on the following day. By law, W&I § 631, any decision to hold or detain a minor more than 24 hours must be reviewed and approved by a supervising probation officer. Therefore, it is imperative that the report be delivered to the Probation Department within 24 hours from the time of the minor's arrest.**

325.11.5 RELEASING THE MINOR TO DESIGNATED PERSONS

When a parent is arrested and required to be booked into jail, and the parent has their child with them, the following considerations should be made for releasing or securing the child:

(a) The supervisor, or watch commander shall be notified and consulted to establish a suitable disposition for the child;

(b) If there are any circumstances that allege child abuse, neglect, or reasonable suspicion is raised regarding the suitability of the child's home, or of the person who is to take custody of the child, and then the child should be placed in the Bill Wilson Center.;

(c) In the absence of any known or alleged disqualifying condition, a child may, at the request of the arrested parent and with the approval of a supervisor, be released to a designated family member or other responsible adult known to the family whom the parent and the child trust. In such cases where a minor is released to an individual so designated by the parent, the investigating officer will document the request and disposition of the minor in the arrest report. The identity of the person taking custody of the child, as necessary, should be established with photo identification;

(d) If the parent is reluctant about identifying or agreeing on who should take custody of the child, the child should be taken to the Bill Wilson Center. An exception might be when the child is old enough to care for himself or herself, such as a teenager, who may only need a ride home. In such cases, it is permissible to have a friend provide transportation for the teenager.

## 325.12 PERSONAL PROPERTY

The officer taking custody of a juvenile offender or status offender at the Palo Alto Police Department shall ensure a thorough search of the juvenile’s property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils, and belts.

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile’s presence and sealed into the bag. The property should be kept in a

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monitored or secure location until the juvenile is released from the custody of the Palo Alto Police Department.

## 325.13 SECURE CUSTODY

Only juvenile offenders 14 years of age or older may be placed in secure custody (Welfare and Institutions Code § 207; 15 CCR 1145). Watch Commander approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to themselves or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to themselves or others include the following (15 CCR 1145):

(a) Age, maturity, and delinquent history

(b) Severity of offense for which the juvenile was taken into custody

(c) The juvenile offender's behavior

(d) Availability of staff to provide adequate supervision or protection of the juvenile offender

(e) Age, type, and number of other individuals in custody at the facility

Members of this [department/office] shall not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option (15 CCR 1145).

When practicable and when no locked enclosure is available, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object (15 CCR 1148).

Juveniles shall not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter (15 CCR 1148). Supervisor approval should be documented.

The decision for securing a minor to a stationary object for longer than 60 minutes and every 30 minutes thereafter shall be based upon the best interests of the juvenile offender (15 CCR 1148).

### 325.13.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

(a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.

(b) Juveniles shall have constant auditory access to [department/office] members (15 CCR 1147).

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(c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1).

(d) Unscheduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (15 CCR 1147; 15 CCR 1151).

1. All safety checks shall be logged.
2. The safety check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
3. Requests or concerns of the juvenile should be logged.

(e) Males and females shall not be placed in the same locked room (15 CCR 1147).

(f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).

(g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

## 325.14 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE

The Watch Commander will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Palo Alto Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

(a) Immediate notification of the on-duty supervisor, Chief of Police, and Investigative Services Division Supervisor.

(b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.

(c) Notification of the appropriate prosecutor.

(d) Notification of the City attorney.

(e) Notification to the coroner.

(f) Notification of the juvenile court.

(g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections (BSCC) within the same time frame (15 CCR 1046).

(h) A medical and operational review of deaths pursuant to 15 CCR 1046.

1. A copy of the review report shall be provided to BSCC within 60 days of the death (15 CCR 1046).

(i) Evidence preservation.

### 325.14.1 IN-CUSTODY DEATH PUBLICATION

The Chief of Police or the authorized designee should ensure that specified information relating to an in-custody death of a juvenile is posted on the [department/office] website as prescribed and within the time frames provided in Penal Code § 10008.

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## 325.15 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent, to an interview or interrogation.

Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, an officer shall permit a juvenile 17 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile (Welfare and Institutions Code § 625.6).

Threats, physical harm, deception, or psychologically manipulative interrogation tactics shall not be used by an officer during a custodial interrogation of a juvenile (Welfare and Institutions Code § 625.7).

The requirements to consult with legal counsel or to refrain from the use of prohibited interrogation techniques do not apply when (Welfare and Institutions Code § 625.6; Welfare and Institutions Code § 625.7):

(a) Information is necessary to protect life or property from an imminent threat.

    1. The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

### 325.15.1 MANDATORY RECORDINGS OF JUVENILES

Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a [department/office] facility, jail, detention facility, or other fixed place of detention. The recording shall include the entire interview and a *Miranda* advisement preceding the interrogation (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.

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(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

(h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction over the individual, or the prosecution for that offense is barred (Penal Code § 859.5; Welfare and Institutions Code § 626.8).

### 325.16 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting officer's supervisor, or in the supervisor's absence, the Watch Commander.

Any juvenile 14 years of age or older who is taken into custody for a felony, or any juvenile whose acts amount to a sex crime, shall be booked, fingerprinted, and photographed.

For all other acts defined as crimes, juveniles may be booked, fingerprinted, or photographed upon the approval from the Watch Commander or the Investigative Services supervisor, giving due consideration to the following:

(a) The gravity of the offense

(b) The past record of the offender

(c) The age of the offender

### 325.17 RELEASE OF INFORMATION CONCERNING JUVENILES

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Members of this [department/ office] shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Records Manager and the appropriate Investigative Services supervisors to ensure that personnel of those bureaus act within legal guidelines.

### 325.18 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Field Services Division Captain shall coordinate the procedures related to the custody of juveniles held at the Palo Alto Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

### 325.19 TRAINING

[Department/Office] members should be trained on and familiar with this policy and any supplemental procedures.

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## 325.20 POLICY ISSUE DATE

Updated: 06-15-23

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# Senior and Disability Victimization

## 327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Palo Alto Police Department members as required by law (Penal Code § 368.6).

The Palo Alto Police Department is committed to providing equal protection and demonstrating respect for all persons regardless of age or disabilities, and to conscientiously enforcing all criminal laws protecting elders, and adults and children with disabilities, regardless of whether these crimes also carry civil penalties (Penal Code § 368.6) (see Child Abuse Policy for child abuse investigations and reporting).

In addition to the policies and procedures contained in this policy, all personnel are required to read and follow the Santa Clara County Protocols Section 4 - Elder and Dependent Adult Abuse Protocol when conducting Adult Abuse investigations.

### 327.1.1 DEFINITIONS

Definitions related to this policy include:

**Abuse of an elder (age 65 or older) or dependent adult** - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.05 et seq.; Penal Code § 368.5).

**[Department/Office] protocols (or protocols)** - A procedure adopted by a local law enforcement agency consistent with the agency's organizational structure and stated in a policy adopted pursuant to this section, to effectively and accountably carry out a particular agency responsibility.

**Dependent adult** - An individual, regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights, including but not limited to persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Penal Code § 368; Welfare and Institutions Code § 15610.23).

**Elder and dependent adult abuse** - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement (Penal Code § 368).

**Senior and disability victimization** - Means any of the following (Penal Code § 368.6):

(a) Elder and dependent adult abuse

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(b) Unlawful interference with a mandated report

(c) Homicide of an elder, dependent adult, or other adult or child with a disability

(d) Sex crimes against elders, dependent adults, or other adults and children with disabilities

(e) Child abuse of children with disabilities

(f) Violation of relevant protective orders

(g) Hate crimes against persons with actual or perceived disabilities, including but not limited to disabilities caused by advanced age, or those associated with them

(h) Domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age

## 327.2 INVESTIGATIONS AND REPORTING

All reported or suspected cases of elder and dependent adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated (Penal Code § 368.6).

Investigations and reports related to suspected cases of elder and dependent adult abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected elder and dependent adult abuse victim is contacted.

(b) Any relevant statements the victim may have made and to whom he/she made the statements.

(c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.

(e) Whether the victim was transported for medical treatment or a medical examination.

(f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

(g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.

(h) Previous addresses of the victim and suspect.

(i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim’s environment.

(j) Witness and suspect statements if available.

(k) Review of all portable audio/video recorders, devices, and other available video.

(l) Call history related to the elder or dependent adult including calls from mandated reporters or other individuals.

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(m) Whether the abuse is related to a disability-bias hate crime and related bias motivations (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).

(n) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the elder or dependent adult abuse (Welfare and Institutions Code § 15640(f)).

(o) Whether a death involved the End of Life Option Act:

1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14).
2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17).
3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17).
4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential elder or dependent adult abuse and investigated similarly.

An unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability should be treated as a potential homicide until a complete investigation including an autopsy is completed, and it should not be assumed that the death of an elder or person with a disability is natural simply because of the age or disability of the deceased (Penal Code § 368.6(c)(18)).

### 327.2.1 ADDITIONAL INVESTIGATIVE CONSIDERATIONS

The following factors as provided in Penal Code § 368.6 should be considered when investigating incidents of elder and dependent adult abuse:

(a) Elder and dependent adult abuse, sex crimes, child abuse, domestic violence, and any other criminal act, when committed in whole or in part because of the victim's actual or perceived disability, including disability caused by advanced age, is also a hate crime (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).

(b) Senior and disability victimization crimes are also domestic violence subject to the mandatory arrest requirements of Penal Code § 836 if they meet the elements described in Penal Code § 273.5, including but not limited to a violation by a caretaker or other person who is or was a cohabitant of the victim, regardless of whether the cohabitant is or was a relative of, or in an intimate personal relationship with, the victim (Penal Code § 368.6(c)(10)).

(c) Many victims of sexual assault and other sex crimes delay disclosing the crimes for reasons including but not limited to shame, embarrassment, self-doubt, fear of being

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disbelieved, and fear of retaliation by the perpetrator or others (Penal Code § 368.6(c)(11)).

(d) Victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons (Penal Code § 368.6(c)(14)).

## 327.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available to investigate cases of elder and dependent adult abuse. These investigators should:

(a) Conduct interviews in appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to elder and dependent adult abuse investigations.

(c) Present all cases of alleged elder and dependent adult abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies, and facility administrators as needed (Welfare and Institutions Code § 15650).

(e) Provide referrals to therapy services, victim advocates, guardians, and support for the victim and family as appropriate (see the Victim and Witness Assistance Policy for additional guidance).

1. Ensure victims of sex crimes know their right to have a support person of their choice present at all times during an interview or contact (Penal Code § 368.6) (see the Sexual Assault Investigations Policy for additional guidance).

2. Referrals to the crime victim liaison as appropriate for victims requiring further assistance or information regarding benefits from crime victim resources.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).

(g) Make reasonable efforts to determine whether any person committed unlawful interference in a mandated report.

## 327.4 MANDATORY NOTIFICATION

Members of the Palo Alto Police Department shall notify the local office of the California Department of Social Services (CDSS) APS agency of known, suspected, or alleged instances of abuse when they reasonably suspect, have observed, or have knowledge of an incident that reasonably appears to be abuse of an elder or dependent adult, or are told by an elder or dependent adult that the person has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone or through a confidential internet reporting tool as soon as practicable. If notification is made by telephone, a written report shall be sent or internet report shall be made through the confidential internet reporting tool within two working days, as provided in Welfare and Institutions Code § 15630(b).

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Notification shall also be made to the following agencies as soon as practicable or as provided below (Welfare and Institutions Code § 15630):

(a) If the abuse occurred in a long-term care facility (not a state mental health hospital or a state developmental center), notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):

1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
2. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by a written report to the local ombudsman within 24 hours.
3. If there is any other abuse in a long-term care facility (not a state mental health or a state developmental center), a written report shall be made to the local ombudsman and corresponding state licensing agency within 24 hours.

(b) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.

(c) The CDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.

(d) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.

(e) The Division of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.

(f) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.

(g) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).

1. When a report of abuse is received by the [Department/Office], investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).

(h) If during an investigation it is determined that the elder or dependent adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).

(i) When the [Department/Office] receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

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The Investigative Services supervisor is responsible for ensuring that proper notifications have occurred to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place (e.g., care facility, hospital) per Welfare and Institutions Code § 15630(b).

Notification is not required for a person who was merely present when a person self-administered a prescribed aid-in-dying drug or a person prepared an aid-in-dying drug so long as the person did not assist the individual in ingesting the aid-in-dying drug (Health and Safety Code § 443.14; Health and Safety Code § 443.18).

Failure to report or impeding or inhibiting a report of abuse of an elder or dependent adult is a misdemeanor (Welfare and Institutions Code §15630(h)).

#### 327.4.1 NOTIFICATION PROCEDURE

Notification should include the following information, if known (Welfare and Institutions Code § 15630(e)):

(a) The name of the person making the report.

(b) The name and age of the elder or dependent adult.

(c) The present location of the elder or dependent adult.

(d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.

(e) The nature and extent of the condition of the elder or dependent adult.

(f) The date of incident.

(g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

### 327.5 PROTECTIVE CUSTODY

Before taking an elder or dependent adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact APS. Generally, removal of an adult abuse victim from his/her family, guardian, or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

Generally, members of this [department/office] should remove an elder or dependent adult abuse victim from his/her family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an elder or dependent adult abuse victim into protective custody, the officer should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the officer shall ensure that the adult is delivered to APS.

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Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an elder or dependent adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

When elder or dependent adult abuse victims are under state control, have a state-appointed guardian, or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

### 327.5.1 EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or dependent adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

### 327.5.2 MENTAL HEALTH HOLDS

When an elder (65 years and older) is taken on a Mental Health Hold per W&I 5150, officers shall classify the report as Elder Abuse/Self Neglect and complete a Report of Suspected Dependant Adult/Elder Abuse form (SOC 341). Them officer shall ensure that the SOC 341 form is forwarded to Adult Protective Servics (APS) and make a phone report to APS immediately inorder to cross report.

In cases of Mental Health Holds which involve subjects who are between the ages of 18 and 64, Investigative Services Division personnel will evaluate the details of the case and decidewhether the subject should be classified as a "Dependant Adult". Those deemed Dependant Adults will be referred to APS.

### 327.5.3 VERIFICATION OF PROTECTIVE ORDER

Whenever an officer verifies that a relevant protective order has been issued, the officer shall make reasonable efforts to determine if the order prohibits the person from possession of firearms or requires the relinquishment of firearms, and if the order does so, the officer shall make reasonable efforts to (Penal Code § 368.6(c)(19)):

(a) Inquire whether the restrained person possesses firearms. The officer should make this effort by asking the restrained person and the protected person.

(b) Query the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.

(c) Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search in compliance with Penal Code § 18250 et seq. and in accordance with [department/office] procedures.

## 327.6 INTERVIEWS

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### 327.6.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected elder or dependent adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available.

### 327.6.2 DETAINING VICTIMS FOR INTERVIEWS

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the adult need to be addressed immediately.
2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.

(b) A court order or warrant has been issued.

### 327.6.3 INTERVIEWS WITH A PERSON WITH DEAFNESS OR HEARING LOSS

An officer who is interviewing a victim or witness who reports or demonstrates deafness or hearing loss should secure the services of a qualified interpreter (as defined by Evidence Code § 754) prior to the start of the interview (Penal Code § 368.6) (see the Communications with Persons with Disabilities Policy for additional guidance).

## 327.7 MEDICAL EXAMINATIONS

When an elder or dependent adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency, or entity having legal custody of the adult. The officer should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency, or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

## 327.8 RECORDS BUREAU RESPONSIBILITIES

The Technical Services Division is responsible for:

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(a) Providing a copy of the elder or dependent adult abuse report to the APS, ombudsman, or other agency as applicable within two working days or as required by law (Welfare and Institutions Code § 15630; Welfare and Institutions Code § 15640(c)).

(b) Retaining the original elder or dependent adult abuse report with the initial case file.

## 327.9 JURISDICTION

The Palo Alto Police Department has concurrent jurisdiction with state law enforcement agencies when investigating elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities (Penal Code § 368.5).

Adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect and may assist in criminal investigations upon request, if consistent with federal law, in such cases. However, this [department/office] will retain responsibility for the criminal investigations (Penal Code § 368.5).

Additional jurisdiction responsibilities for investigations of abuse involving various facilities and agencies may be found in Welfare and Institutions Code § 15650.

## 327.10 RELEVANT STATUTES

**Penal Code § 288 (a) and Penal Code § 288 (b)(2)**

(a) Except as provided in subdivision (i), a person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1 (Of Crimes and Punishments of the Penal Code) upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(b)(2) A person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

**Penal Code § 368 (c)**

A person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.

**Penal Code § 368 (f)**

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A person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

Protections provided by the above Penal Code § 288 and Penal Code § 368 protect many persons with disabilities regardless of the fact they live independently.

**Welfare and Institutions Code § 15610.05**

"Abandonment" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

**Welfare and Institutions Code § 15610.06**

"Abduction" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

**Welfare and Institutions Code § 15610.30**

(a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:

1. Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
2. Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
3. Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.

(c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.

(d) For purposes of this section, "representative" means a person or entity that is either of the following:

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1. A conservator, trustee, or other representative of the estate of an elder or dependent adult.
2. An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

**Welfare and Institutions Code § 15610.43**

(a) "Isolation" means any of the following:

1. Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
2. Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
3. False imprisonment, as defined in Section 236 of the Penal Code.
4. Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice. medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe.

**Welfare and Institutions Code § 15610.57**

(a) "Neglect" means either of the following:

1. The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.
2. The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

1. Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
2. Failure to provide medical care for physical and mental health needs. A person shall not be deemed neglected or abused for the sole reason that the person voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

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3. Failure to protect from health and safety hazards.
4. Failure to prevent malnutrition or dehydration.
5. Substantial inability or failure of an elder or dependent adult to manage personal finances.
6. Failure of an elder or dependent adult to satisfy any of the needs specified in paragraphs (1) to (5), inclusive, for themselves as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

(c) Neglect includes being homeless if the elder or dependent adult is also unable to meet any of the needs specified in paragraphs (1) to (5), inclusive, of subdivision (b).

**Welfare and Institutions Code § 15610.63**

"Physical abuse" means any of the following:

(a) Assault, as defined in Section 240 of the Penal Code.

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

1. Sexual battery, as defined in Section 243.4 of the Penal Code.
2. Rape, as defined in Section 261 of the Penal Code, or former Section 262 of the Penal Code.
3. Rape in concert, as described in Section 264.1 of the Penal Code.
4. Incest, as defined in Section 285 of the Penal Code.
5. Sodomy, as defined in Section 286 of the Penal Code.
6. Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
7. Sexual penetration, as defined in Section 289 of the Penal Code.
8. Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

1. For punishment.
2. For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.

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3. For any purpose not authorized by the physician and surgeon.

## 327.11 ELDER AND DEPENDENT ADULT ABUSE LIAISON

A [department/office] member appointed by the Chief of Police or the authorized designee will serve as the Elder and Dependent Adult Abuse Liaison. Responsibilities of the liaison include but are not limited to (Penal Code § 368.6):

(a) Acting as a liaison to other responsible agencies (defined by Penal Code § 368.6(b)(15)) to increase cooperation and collaboration among them while retaining the law enforcement agency's exclusive responsibility for criminal investigations (Welfare and Institutions Code § 15650).

(b) Reaching out to the senior and disability communities and to the public to encourage prevention and reporting of senior and disability victimization.

## 327.12 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police or the authorized designee responsibilities include but are not limited to (Penal Code § 368.6):

(a) Taking leadership within the [Department/Office] and in the community, including by speaking out publicly in major cases of senior and disability victimization, to assure the community of [department/office] support for the victims and their families and for others in the community who are terrorized and traumatized by the crimes, and to encourage victims and witnesses to the crimes or similar past or future crimes to report those crimes to help bring the perpetrators to justice and prevent further crimes.

(b) Developing and including [department/office] protocols in this policy, including but not limited to the following:

1. Protocols for seeking emergency protective orders by phone from a court at any time of day or night pursuant to Family Code § 6250(d).

2. Protocols for arrest warrants and arrests for senior and disability victimization for matters other than domestic violence and consistent with the requirements of Penal Code § 368.6(c)(9)(B) that include the following:

(a) In the case of a senior and disability victimization committed in an officer's presence, including but not limited to a violation of a relevant protective order, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

(b) In the case of a felony not committed in an officer's presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

(c) In the case of a misdemeanor not committed in the officer's presence, including but not limited to misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, or when necessary or advisable to protect the safety of the victim or others, the agency shall seek an arrest warrant based on probable cause.

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(d) Protocol for seeking arrest warrants based on probable cause for crimes for which no arrest has been made.

3. Procedures for first responding officers to follow when interviewing persons with cognitive and communication disabilities until officers, or staff of other responsible agencies with more advanced training, are available. The procedure shall include an instruction to avoid repeated interviews whenever possible.

(c) For each [department/office] protocol, include either a specific title-by-title list of officer responsibilities or a specific office or unit in the [Department/Office] responsible for implementing the protocol.

(d) Ensuring an appendix is created and attached to this policy that describes requirements for elder and dependent adult abuse investigations consistent with Penal Code § 368.6(c)(8)(B).

(e) Ensuring a detailed checklist is created and attached to this policy regarding first responding responsibilities that includes but is not limited to the requirements of Penal Code § 368.6(c)(23).

(f) Ensuring that all members carry out their responsibilities under this policy.

(g) Verifying a process is in place for transmitting and periodically retransmitting this policy and related orders to officers, including a simple and immediate way for officers to access the policy in the field when needed.

(h) Ensuring this policy is available to the Protection and Advocacy Agency upon request.

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# Discriminatory Harassment

## 329.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent [department/office] members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

## 329.2 POLICY

The Palo Alto Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023). The [Department/Office] will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The [Department/Office] will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the [Department/Office] may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

## 329.3 DEFINITIONS

Definitions related to this policy include:

### 329.3.1 DISCRIMINATION

The [Department/Office] prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes, stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or [department/office] equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to [department/office] policy and to a work environment that is free of discrimination.

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### 329.3.2 SEXUAL HARASSMENT

The [Department/Office] prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.

(b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.

(c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

### 329.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards, including:

(a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the California Civil Rights Council guidelines.

(b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with City or [department/office] rules or regulations, or any other appropriate work-related communication between supervisor and member.

### 329.3.4 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

## 329.4 RESPONSIBILITIES

This policy applies to all [department/office] personnel. All members shall follow the intent of these guidelines in a manner that reflects [department/office] policy, professional standards, and the best interest of the [Department/Office] and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Personnel and Training Lieutenant, Human Resources,or the City Manager.

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Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

### 329.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

(a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.

(b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.

(c) Ensuring that their subordinates understand their responsibilities under this policy.

(d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.

(e) Making a timely determination regarding the substance of any allegation based upon all available facts.

(f) Notifying the Chief of Police or the Personnel and Training Lieutenant in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

### 329.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

(a) Behavior of supervisors and managers should represent the values of the [Department/Office] and professional standards.

(b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline, in a manner that is consistent with established procedures.

### 329.4.3 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, the Personnel and Training Lieutenant, the City Manager, or the California Civil Rights Department for further information, direction, or clarification (Government Code § 12950).

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## 329.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the [Department/Office] that all complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

### 329.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

### 329.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status, are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, the Personnel and Training Lieutenant, or the City Manager.

### 329.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the [Department/Office]. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

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## 329.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

(a) Approved by the Chief of Police, the City Manager, or the Personnel and Training Lieutenant, depending on the ranks of the involved parties.

(b) Maintained in accordance with the [department/office]'s established records retention schedule.

### 329.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

## 329.7 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the [Department/Office].

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

### 329.7.1 STATE-REQUIRED TRAINING

The Personnel and Training Lieutenant should ensure that employees receive the required state training and education regarding sexual harassment, prevention of abusive conduct, and harassment based on gender identity, gender expression, and sexual orientation as follows (Government Code § 12950.1; 2 CCR 11024):

(a) Supervisory employees shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.

(b) All other employees shall receive one hour of classroom or other effective interactive training and education within six months of their employment or sooner for seasonal or temporary employees as described in Government Code § 12950.1.

(c) All employees shall receive refresher training every two years thereafter.

If the required training is to be provided by the Civil Rights Department online training courses, the Personnel and Training Lieutenant should ensure that employees are provided the following website address to the training course: https://calcivilrights.ca.gov (Government Code § 12950; 2 CCR 11023).

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329.7.2 TRAINING RECORDS

The Personnel and Training Lieutenant shall be responsible for maintaining records of all discriminatory harassment training provided to members. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

## 329.8 WORKING CONDITIONS

The Administrative Services Division Captain or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other City employees who are similarly tasked (2 CCR 11034).

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# Child Abuse

## 331.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Palo Alto Police Department members are required to notify the county Child Protective Services (CPS) of suspected child abuse.

## 331.2 POLICY

The Palo Alto Police Department will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law.

In addition to the policies and procedures contained in this Child Abuse Investigations and Reporting Policy, all personnel are required to read and follow the guidelines contained in Santa Clara County Protocols Section 2 - Child Abuse Protocol, when investigating and responding to child abuse investigations.

## 331.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

(a) Conduct interviews in child appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to child abuse investigations.

(c) Present all cases of alleged child abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

## 331.4 INVESTIGATIONS AND REPORTING

A crime report shall always be written for suspected/substantiated abuse, unfounded abuse neglect/endangerment, or any act which results in a non-accidental injury. Crime reports shall include a Juvenile Contact Report (JCR) if a child is taken into protective custody, and the "Suspected Child Abuse Report" Form SS8572.

When a patrol officer is dispatched to an active or on-view child abuse, he/she shall take appropriate steps to assure the safety of the child and the identification and/or apprehension of the suspect.

In addition, investigations and reports related to suspected cases of child abuse should address, as applicable:

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(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.

(b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

(c) Any relevant statements the child may have made and to whom he/she made the statements.

(d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.

(f) Whether the child victim was transported for medical treatment or a medical examination.

(g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.

(h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.

(i) Previous addresses of the victim and suspect.

(j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

**INVESTIGATIVE SERVICES DIVISION:** When a Suspected Child Abuse Report is received by the Investigative Services Division, it will be routed through the Person Crimes supervisor. The Person Crimes supervisor will assign the case to a detective for follow-up investigation and ensure that the case has been cross-reported to DFCS.

The investigating detective shall coordinate his/her investigation and interviews with a DFCS social worker, to minimize the number of contacts and interviews with the victim(s). In addition to the guidelines set forth in the Santa Clara County Child Abuse Protocol, the duties of the detective assigned to investigate child abuse includes but is not limited to:

(a) Responsibility for the investigation, the collection of evidence and preliminary preparation for prosecution of all cases of child abuse and molestation.

(b) Investigating the deaths of children that could be attributed to abuse or molestation.

(c) Investigating any instance of Sudden Infant Death (SID).

(d) Investigating reports of unfit homes, child abandonment, child endangering or neglect.

(e) Providing follow-up compliance calls on reports of suspected child abuse.

(f) Providing appropriate training to patrol personnel.

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(g) Coordinating with other law enforcement agencies, social service agencies and school administrators as needed.

(h) Conducting interviews in child appropriate interview facilities.

(i) Be familiar with forensic interview techniques specific to child abuse investigations.

(j) Present all cases of alleged child abuse to the prosecutor for review.

(k) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.

(l) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code 18961.7).

331.4.1 EXTRA JURISDICTIONAL REPORTS

If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, department members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code 11165.9).

## 331.5 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should make reasonable attempts to contact CPS. Generally, removal of a child from his/her family, guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to CPS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations when a court order cannot reasonably be obtained in a timely manner (Welfare and Institutions Code § 305):

(a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, or a commercially exploited child under Penal Code § 647 and Penal Code § 653.22, and further has good cause to believe that any of the following conditions exist:

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1. The child has an immediate need for medical care.
2. The child is in immediate danger of physical or sexual abuse.
3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.

(b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:

1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
2. There is no lawful custodian available to take custody of the child.
3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
4. The child is an abducted child.

(c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

A child taken into protective custody shall be delivered to CPS unless otherwise directed by court order.

### 331.5.1 CALIFORNIA SAFELY SURRENDERED BABY LAW

An individual having lawful custody of an infant less than 72 hours old is not guilty of abandonment if the individual voluntarily surrenders physical custody of the infant to personnel on-duty at a safe-surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS.

## 331.6 INTERVIEWS

### 331.6.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

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Patrol officers should interview all parties involved, including children, separately. If the case involves severe, ongoing, physical or sexual abuse or severe neglect, the Investigative Services Division Person Crimes supervisor should be contacted for assistance from a child abuse detective. At this point consideration should be given to scheduling a Multi-Disciplinary Interview (MDI), and the patrol officer should conduct basic interviews only to determine jurisdiction, and elements of at least one crime.

### 331.6.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the child need to be addressed immediately.
2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

(b) A court order or warrant has been issued.

### 331.6.3 INTERVIEWS AT A SCHOOL

Any student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member's presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3). The officer shall inform the child of that right prior to the interview.

In addition, the officer should notify the school administration (Principal) that he/she is conducting a child abuse investigation. The officer should not reveal any specific details concerning the type of abuse or suspect information. The staff member should be instructed not to discuss the facts or circumstances of the case with the child or participate in the interview. No member of the school staff can demand to be present at an interview. It is solely up to the child to initiate a request for support after being told by the officer that he or she has the right to do so.

## 331.7 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

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### 331.7.1 RELEASE OF REPORTS

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Penal Code 841.5; Penal Code § 11167.5).

### 331.7.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSECENTRAL INDEX (CACI)

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California's CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

### 331.7.3 CACI HEARING OFFICER

The Investigative Services supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person's name being submitted to CACI. Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

### 331.7.4 CACI HEARING PROCEDURES

The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

(a) Case reports including any supplemental reports

(b) Statements by investigators

(c) Statements from representatives of the District Attorney's Office

(d) Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party's name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the

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person’s name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

### 331.8 POLICY ISSUE DATE

Updated: 12-8-16

Updated: 4/20/2022

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# Missing Persons

## 333.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

### 333.1.1 DEFINITIONS

Definitions related to this policy include:

**At risk** - Includes but is not limited to (Penal Code § 14215):

- A victim of a crime or foul play
- A person missing and in need of medical attention
- A missing person with no pattern of running away or disappearing
- A missing person who may be the victim of parental abduction
- A mentally impaired missing person, including cognitively impaired or developmentally disabled

**Missing person** - Any person who is reported missing to law enforcement when the person's location is unknown. This includes a child who has been taken, detained, concealed, enticed away, or kept by a parent in violation of the law (Penal Code § 277 et seq.). It also includes any child who is missing voluntarily, involuntarily, or under circumstances that do not conform to their ordinary habits or behavior, and who may be in need of assistance (Penal Code § 14215).

**Missing person networks** - Databases or computer networks that are available to law enforcement and that are suitable for obtaining information related to missing persons investigations. This includes the National Crime Information Center (NCIC), the National Missing and Unidentified Persons System (NamUs), the California Law Enforcement Telecommunications System (CLETS), the Missing Person System (MPS), and the Unidentified Persons System (UPS).

## 333.2 POLICY

The Palo Alto Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. The Palo Alto Police Department gives missing person cases priority over property-related cases and will not require any time frame to pass before beginning a missing person investigation (Penal Code § 14211).

## 333.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

The Investigative Services supervisor should ensure the forms and kits are developed and available in accordance with this policy, state law, federal law and the California Peace Officer Standards and Training (POST) Missing Persons Investigations guidelines, including:

- [Department/Office] report form for use in missing person cases

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- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation (Penal Code § 13519.07)
- Missing person school notification form
- Medical records release form from the California Department of Justice
- California DOJ missing person forms as appropriate
- Biological sample collection kits

### 333.4 ACCEPTANCE OF REPORTS

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay (Penal Code § 14211). This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members who do not take such reports or who are unable to render immediate assistance shall promptly dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any other question of jurisdiction (Penal Code § 14211).

### 333.5 INITIAL INVESTIGATION

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

(a) Respond to a dispatched call as soon as practicable.

(b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.

(c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).

(d) Broadcast a "Be on the Look-Out (BOLO) bulletin" if the person is under 21 years of age or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 21 years of age or may be at risk (Penal Code § 14211).

(e) Ensure that entries are made into the appropriate missing person networks as follows:

1. Immediately, when the missing person is at risk.
2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report (34 USC § 41308).

(f) Complete the appropriate report forms accurately and completely and initiate a search as applicable according to the facts.

(g) Collect and/or review:

1. A photograph and a fingerprint card of the missing person, if available.
2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).

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3. Any documents that may assist in the investigation, such as court orders regarding custody.
4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).

(h) When circumstances permit and if appropriate, attempt to determine the missing person's location through their telecommunications carrier.

(i) Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

## 333.6 REPORT PROCEDURES AND ROUTING

Employees should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

### 333.6.1 SUPERVISOR RESPONSIBILITIES

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

(a) Reviewing and approving missing person reports upon receipt.
1. The reports should be promptly sent to the Technical Services Division.

(b) Ensuring resources are deployed as appropriate.

(c) Initiating a command post as needed.

(d) Ensuring applicable notifications and public alerts are made and documented.

(e) Ensuring that records have been entered into the appropriate missing persons networks.

(f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

### 333.6.2 TECHNICAL SERVICES DIVISION RESPONSIBILITIES

The responsibilities of the receiving member shall include but are not limited to:

(a) As soon as reasonable under the circumstances, notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's residence in cases where the missing person is a resident of another jurisdiction (Penal Code § 14211).

(b) Notifying and forwarding a copy of the report to the agency of jurisdiction where the missing person was last seen (Penal Code § 14211).

(c) Notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's intended or possible destination, if known.

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(d) Forwarding a copy of the report to the Investigative Services.

(e) Coordinating with the NCIC Terminal Contractor for California to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

## 333.7 INVESTIGATIVE SERVICES FOLLOW-UP

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

(a) Shall ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.

1. The notice shall be in writing and should also include a photograph (Education Code § 49068.6).

2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information if the school receives a call requesting the transfer of the missing child's files to another school.

(b) Should recontact the reporting party and/or other witnesses within 30 days of the initial report and within 30 days thereafter to keep them informed, as appropriate, and to determine if any additional information has become available.

(c) Should consider contacting other agencies involved in the case to determine if any additional information is available.

(d) Shall verify and update CLETS, NCIC, and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).

(e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.

(f) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).

(g) Should make appropriate inquiry with the [Medical Examiner/JOP].

(h) Should obtain and forward medical and dental records, photos, X-rays, and biological samples pursuant to Penal Code § 14212 and Penal Code § 14250.

(i) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not been obtained previously and forward the photograph to California DOJ (Penal Code § 14210) and enter the photograph into applicable missing person networks (34 USC § 41308).

(j) In the case of an at-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

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## 333.8 WHEN A MISSING PERSON IS FOUND

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the relatives and/or reporting party, as appropriate, and other involved agencies and refer the case for additional investigation if warranted.

The Records Manager shall ensure that, upon receipt of information that a missing person has been located, the following occurs (Penal Code § 14213):

(a) Notification is made to California DOJ.

(b) The missing person's school is notified.

(c) Entries are made in the applicable missing person networks.

(d) Immediately notify the Attorney General's Office.

(e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation within 24 hours.

### 333.8.1 UNIDENTIFIED PERSONS

Members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying themself should:

(a) Obtain a complete description of the person.

(b) Enter the unidentified person's description into the NCIC Unidentified Person File and the NamUs database.

(c) Use available resources, such as those related to missing persons, to identify the person.

## 333.9 CASE CLOSURE

The Investigative Services supervisor may authorize the closure of a missing person case after considering the following:

(a) Closure is appropriate when the missing person is confirmed returned or evidence has matched an unidentified person or body.

(b) If the missing person is a resident of Palo Alto or this [department/office] is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.

(c) If this [department/office] is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified, and entries are made in the applicable missing person networks as appropriate.

(d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

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## 333.10 TRAINING

Subject to available resources, the Personnel and Training Lieutenant should ensure that members of this [department/office] whose duties include missing person investigations and reports receive regular training that includes:

(a) The initial investigation:
    1. Assessments and interviews
    2. Use of current resources, such as Mobile Audio Video (MAV)
    3. Confirming missing status and custody status of minors
    4. Evaluating the need for a heightened response
    5. Identifying the zone of safety based on chronological age and developmental stage

(b) Briefing of [department/office] members at the scene.

(c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).

(d) Verifying the accuracy of all descriptive information.

(e) Initiating a neighborhood investigation.

(f) Investigating any relevant recent family dynamics.

(g) Addressing conflicting information.

(h) Key investigative and coordination steps.

(i) Managing a missing person case.

(j) Additional resources and specialized services.

(k) Update procedures for case information and descriptions.

(l) Preserving scenes.

(m) Internet and technology issues (e.g., Internet use, cell phone use).

(n) Media relations.

## 333.11 POLICY ISSUE DATE

Update: 12-8-16

Updated: 10-11-18

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# Public Alerts

## 335.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

## 335.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

## 335.3 RESPONSIBILITIES

### 335.3.1 MEMBER RESPONSIBILITIES

Members of the Palo Alto Police Department should notify their supervisor, Watch Commander, or Investigative Services Supervisor as soon as practicable upon learning of a situation where public notification, a warning, or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person, or gathering information.

### 335.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Division Captain and the Press Information Officer when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

(a) Updating alerts

(b) Canceling alerts

(c) Ensuring all appropriate reports are completed

(d) Preparing an after-action evaluation of the investigation to be forwarded to the Division Captain

## 335.4 AMBER ALERTS

The AMBER Alert™ Program is a voluntary partnership between law enforcement agencies, broadcasters, transportation agencies and the wireless industry, to activate urgent bulletins in child abduction cases.

### 335.4.1 CRITERIA FOR AMBER ALERT

The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

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(a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.

(b) The victim is 17 years of age or younger, or has a proven mental or physical disability.

(c) The victim is in imminent danger of serious injury or death.

(d) There is information available that, if provided to the public, could assist in the child's safe recovery.

335.4.2 PROCEDURE FOR AMBER ALERT

The supervisor in charge will ensure the following:

(a) An initial press release is prepared that includes all available information that might aid in locating the child:

1. The child's identity, age and description
2. Photograph if available
3. The suspect's identity, age and description, if known
4. Pertinent vehicle description
5. Detail regarding location of incident, direction of travel, potential destinations, if known
6. Name and telephone number of the Press Information Officer or other authorized individual to handle media liaison
7. A telephone number for the public to call with leads or information

(b) The local California Highway Patrol communications center should be contacted to initiate a multi-regional or statewide EAS broadcast, following any policies and procedures developed by CHP (Government Code § 8594).

(c) The press release information is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.

(d) Information regarding the missing person should be entered into the California Law Enforcement Telecommunication System (CLETS).

(e) Information regarding the missing person should be entered into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC).

(f) The following resources should be considered as circumstances dictate:

1. The local FBI office
2. National Center for Missing and Exploited Children (NCMEC)

## 335.5 BLUE ALERTS

Blue Alerts may be issued when an officer is killed, injured or assaulted and the suspect may pose a threat to the public or other law enforcement personnel.

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### 335.5.1 CRITERIA FOR BLUE ALERTS

All of the following conditions must be met before activating a Blue Alert (Government Code § 8594.5):

(a) A law enforcement officer has been killed, suffered serious bodily injury or has been assaulted with a deadly weapon, and the suspect has fled the scene of the offense.

(b) The investigating law enforcement agency has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.

(c) A detailed description of the suspect's vehicle or license plate is available for broadcast.

(d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

### 335.5.2 PROCEDURE FOR BLUE ALERT

The supervisor in charge should ensure the following:

(a) An initial press release is prepared that includes all available information that might aid in locating the suspect:

1. The license number and/or any other available description or photograph of the vehicle
2. Photograph, description and/or identification of the suspect
3. The suspect's identity, age and description, if known
4. Detail regarding location of incident, direction of travel, potential destinations, if known
5. Name and telephone number of the Press Information Officer or other authorized individual to handle media liaison
6. A telephone number for the public to call with leads or information

(b) The local California Highway Patrol communications center is contacted to initiate a multi-regional or statewide EAS broadcast.

(c) The information in the press release is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.

(d) The following resources should be considered as circumstances dictate:

1. Entry into the California Law Enforcement Telecommunication System (CLETS)
2. The FBI local office

## 335.6 SILVER ALERTS

Silver Alerts® is an emergency notification system for people who are 65 years of age or older, developmentally disabled or cognitively impaired and have been reported missing (Government Code § 8594.10).

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### 335.6.1 CRITERIA FOR SILVER ALERTS

All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

(a) The missing person is 65 years of age or older, developmentally disabled or cognitively impaired.

(b) The [department/office] has utilized all available local resources.

(c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances.

(d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

### 335.6.2 PROCEDURE FOR SILVER ALERT

Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).

## 335.7 FEATHER ALERT

A Feather Alert may be issued when an Indigenous person is reported missing. The determination that criteria has been met for the alert shall be made within 24 hours following the initial report being made to the [Department/Office] (Government Code § 8594.13).

### 335.7.1 CRITERIA FOR FEATHER ALERT

The [Department/Office] may request that a Feather Alert be activated if it is determined that the alert would be an effective tool in the investigation of missing and murdered Indigenous persons, including young women or girls. The following factors shall be considered to make that determination (Government Code § 8594.13):

(a) The missing person is an Indigenous person.

(b) The [Department/Office] has utilized local and tribal resources.

(c) The investigating officer has determined the person is missing.

(d) The investigating officer or supervisor believes that the person is in danger and missing under circumstances that indicate any of the following:

1. The missing person's physical safety may be endangered.
2. The missing person may be subject to trafficking.
3. The missing person suffers from a mental or physical disability, or substance use disorder.

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(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

335.7.2 PROCEDURE FOR FEATHER ALERT

Requests for a Feather Alert shall be made through the California Highway Patrol (Government Code § 8594.13).

## 335.8 ENDANGERED MISSING ADVISORY

An Endangered Missing Advisory may be requested when a person is reported missing who is developmentally disabled, or cognitively impaired, or has been abducted, or is unable to otherwise care for themselves, placing their physical safety at risk (Government Code § 8594.11).

335.8.1 CRITERIA FOR ENDANGERED MISSING ADVISORY

All of the following conditions must be met before activating an Endangered Missing Advisory (Government Code § 8594.11):

(a) The missing person is developmentally disabled, cognitively impaired, has been abducted or is otherwise unable to care for themselves, placing their physical safety at risk.

(b) The [Department/Office] has utilized all available local resources.

(c) The investigating officer has determined the person has gone missing under unexplained or suspicious circumstances.

(d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

335.8.2 PROCEDURE FOR ENDANGERED MISSING ADVISORIES

Requests for an endangered missing advisory shall be made through the California Highway Patrol (Government Code § 8594.11).

## 335.9 EBONY ALERT

An Ebony Alert may be requested when it is determined the alert would be an effective tool in the investigation of missing Black youth, including a young woman or girl (Government Code § 8594.14).

335.9.1 CRITERIA FOR EBONY ALERT

The investigating officer may consider the following factors to make the determination that an Ebony Alert would be an effective tool (Government Code § 8594.14):

(a) The missing person is between the ages of 12 and 25 years old, inclusive.

(b) The missing person is missing under circumstances that indicate their physical safety is endangered or they have been subject to trafficking.

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(c) The missing person suffers from a mental or physical disability.

(d) Determination that the person has gone missing under unexplained or suspicious circumstances.

(e) Belief that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

(f) The [Department/Office] has utilized all available local resources.

(g) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

335.9.2 PROCEDURE FOR EBONY ALERT

Requests for an Ebony Alert shall be made through the California Highway Patrol (Government Code § 8594.14).

## 335.10 ADDITIONAL ALERTS FOR PUBLIC SAFETY EMERGENCIES

Additional public safety emergency alerts may be authorized that utilize wireless emergency alert system (WEA) and emergency alert system (EAS) equipment for alerting and warning the public to protect lives and save property (Government Code § 8593.7).

335.10.1 CRITERIA

Public safety emergency alerts may be issued to alert or warn the public about events including but not limited to:

(a) Evacuation orders (including evacuation routes, shelter information, key information).

(b) Shelter-in-place guidance due to severe weather.

(c) Terrorist threats.

(d) HazMat incidents.

335.10.2 PROCEDURE

Public safety emergency alerts should be activated by following the guidelines issued by the Office of Emergency Services (Government Code § 8593.7).

## 335.11 POLICY ISSUE DATE

01-18-24

## 335.12 LANGUAGE REQUIREMENTS FOR PUBLIC EMERGENCIES

In the event of an emergency, as defined in Government Code § 7299.7, the Palo Alto Police Department shall provide information to the public relating to the emergency in all languages jointly spoken by the local population as provided in Government Code § 7299.7.

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# Victim and Witness Assistance

## 337.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

## 337.2 POLICY

The Palo Alto Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Palo Alto Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

## 337.3 CRIME VICTIM LIAISON

The Chief of Police shall appoint a member of the [Department/Office] to serve as the crime victim liaison (2 CCR 649.36). The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the Palo Alto Police Department regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

### 337.3.1 CRIME VICTIM LIAISON DUTIES

The crime victim liaison is specifically tasked with the following:

(a) Developing and implementing written procedures for notifying and providing forms for filing with the California Victim Compensation Board (CalVCB) to crime victims, their dependents, or family. Access to information or an application for victim compensation shall not be denied based on the victim's or derivative victim's designation as a gang member, associate, or affiliate, or on the person's documentation or immigration status (Government Code § 13962; 2 CCR 649.35; 2 CCR 649.36).

(b) Responding to inquiries concerning the procedures for filing a claim with CalVCB (2 CCR 649.36).

(c) Providing copies of crime reports requested by CalVCB or victim witness assistance centers. Disclosure of reports must comply with the Records Maintenance and Release Policy.

(d) Annually providing CalVCB with his/her contact information (Government Code § 13962).

(e) Developing in consultation with sexual assault experts a sexual assault victim card explaining the rights of victims under California law (Penal Code § 680.2).

1. Ensuring that sufficient copies of the rights of sexual assault victim card are provided to each provider of medical evidentiary examinations or physical examinations arising out of sexual assault in the Palo Alto Police Department jurisdiction (Penal Code § 680.2).

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## 337.4 CRIME VICTIMS

Officers should provide all victims with the applicable victim information handouts.

Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

### 337.4.1 VICTIMS OF HUMAN TRAFFICKING

Officers investigating or receiving a report involving a victim of human trafficking shall inform the victim, or the victim's parent or guardian if the victim is a minor, that upon the request of the victim the names and images of the victim and his/her immediate family members may be withheld from becoming a matter of public record until the conclusion of the investigation or prosecution (Penal Code § 293).

Refer to Santa Clara County Protocol Section 17.

## 337.5 VICTIM INFORMATION

The Administrative Services Supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

(a) Shelters and other community resources for victims of domestic violence.

(b) Community resources for victims of sexual assault.

(c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).

(d) An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).

(e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.

(f) A clear explanation of relevant court orders and how they can be obtained.

(g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).

(h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.

(i) Notice regarding U visa and T visa application processes.

(j) Resources available for victims of identity theft.

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(k) A place for the officer’s name, badge number, and any applicable case or incident number.

(l) The "Victims of Domestic Violence" card containing the names, phone numbers, or local county hotlines of local shelters for battered women and rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2).

(m) The rights of sexual assault victims card with the required information as provided in Penal Code § 680.2.

(n) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.04; Penal Code § 679.05; Penal Code § 679.026).

## 337.6 WITNESSES

Officers should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

## 337.7 POLICY ISSUE DATE

Updated: 12-8-16

Updated 5-2-17

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Updated: 3-24-20

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# Hate Crimes

### 339.1 POLICY

The Palo Alto Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the state and federal constitution and incorporated in state and federal law.

The Palo Alto Police Department hate crimes policy is drafted in accordance with the Santa Clara County Protocols. Personnel are required to read and follow the additional guidelines set forth in the Santa Clara County Protocols Section 10 - Santa Clara County Law Enforcement Policy Statement Regarding Hate Crimes.

### 339.2 POLICY

It is the policy of this Department to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This department will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this department should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All officers are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Chief of Police or other command-level officer to whom the Chief of Police formally delegates this responsibility.

### 339.3 PURPOSE AND SCOPE

This policy is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow-up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how the Palo Alto Police Department may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy (Penal Code § 13519.6; Penal Code § 422.87).

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### 339.3.1 DEFINITION AND LAWS

In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.6; and Penal Code § 422.87, for purposes of all other state law, unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

**Bias motivation** - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 422.55. Depending on the circumstances of each case, bias motivation may include but is not limited to hatred, animosity, discriminatory selection of victims, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including but not limited to disability or gender.

**Disability** - Disability includes mental disability and physical disability as defined in Government Code § 12926, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

**Disability bias** - In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as but not limited to dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes but is not limited to situations where a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons, such as inebriated persons or persons with perceived disabilities different from those of the victim. Such circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

**Gender** - Gender means sex and includes a person's gender identity and gender expression.

**Gender expression** -Gender expression means a person's gender-related appearance and behavior, regardless of whether it is stereotypically associated with the person's assigned sex at birth.

**Gender identity** - Gender identity means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender (2 CCR § 11030).

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**Hate crime** - "Hate crime" includes but is not limited to a violation of Penal Code § 422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

(a) Disability

(b) Gender

(c) Nationality

(d) Race or ethnicity

(e) Religion

(f) Sexual orientation

(g) Association with a person or group with one or more of these actual or perceived characteristics:

1. "Association with a person or group with one or more of these actual or perceived characteristics" includes advocacy for, identification with, or being on the premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of the characteristics listed in the definition of "hate crime" under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

Note: A "hate crime" need not be motivated by hate but may be motivated by any bias against a protected characteristic.

**Hate incident** - A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places
- Displaying hate material on your own property

**Hate speech** - The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action

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- Conspiracy
- Solicitation to commit any crime

**In whole or in part** - "In whole or in part because of" means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

**Nationality** - Nationality means country of origin, immigration status, including citizenship, and national origin.

**Race or ethnicity** - Race or ethnicity includes ancestry, color, and ethnic background.

**Religion** - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

**Religious bias** - In recognizing suspected religion-bias hate crimes, officers should consider whether there were targeted attacks on, or biased references to, symbols of importance to a particular religion or articles considered of spiritual significance in a particular religion (e.g., crosses, hijabs, Stars of David, turbans, head coverings, statues of the Buddha).

**Sexual orientation** - Sexual orientation means heterosexuality, homosexuality, or bisexuality.

**Victim** - Victim includes but is not limited to:

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship
- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

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## 339.4 PLANNING AND PREVENTION

In order to facilitate the guidelines contained within this policy, department members will continuously work to build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Department personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Hate incidents should be investigated and documented as part of an overall strategy to prevent hate crimes.

### 339.4.1 HATE CRIMES COORDINATOR

A Department member appointed by the Chief of Police or the authorized designee will serve as the Hate Crimes Coordinator. The responsibilities of the Hate Crimes Coordinator should include but not be limited to (Penal Code § 422.87):

(a) Meeting with residents in target communities to allay fears; emphasizing the Department's concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.

(b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.

(c) Providing direct and referral assistance to the victim and the victim's family.

(d) Conducting public meetings on hate crime threats and violence in general.

(e) Establishing relationships with formal community-based organizations and leaders.

(f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.

(g) Reviewing the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab, Middle Eastern, Islamic, lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ), Black, Native American, immigrant, Jewish, Asian American, and Pacific Islander communities (Penal Code § 13519.6(b)(8)).

(h) Providing orientation of and with communities of specific targeted victims such as immigrant, Muslim, Arab, LGBTQ, Black or African-American, Jewish, and Sikh persons and persons with disabilities.

(i) Coordinating with the Personnel and Training Lieutenant to develop a schedule of required hate-crime training and include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.

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(j) Verifying a process is in place to provide this policy and related orders to officers in the field and taking reasonable steps to rectify the situation if such a process is not in place.

(k) Taking reasonable steps to ensure hate crime data is provided to the Technical Services Division for mandated reporting to the California Department of Justice.

1. Ensure the California Department of Justice crime data is posted monthly on the Department's website (Penal Code § 13023).

(l) Reporting any suspected multi-mission extremist crimes to the Department Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Technical Services Division Policy.

(m) Maintaining the Department's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).

(n) Submitting required hate crime materials to the California Department of Justice in accordance with the timeline established by state law (Penal Code § 13023).

(o) Annually assessing this policy, including:

1. Keeping abreast of POST model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, the supplemental hate crime report, and planning and prevention methods.

2. Analysis of the Department's data collection as well as the available outside data (e.g., annual California Attorney General's report on hate crime) in preparation for and response to future hate crimes.

### 339.4.2 RELEASE OF INFORMATION

Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

(a) Dissemination of correct information.

(b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.

(c) The ability to request information regarding the commission of the crimes from the victimized community.

Information or records relating to hate crimes subject to public disclosure shall be released as provided by the Records Maintenance and Release Policy or as allowed by law. In accordance with the Media Relations Policy, the supervisor, public information officer, or the authorized designee should be provided with information that can be responsibly reported to the media. When appropriate, the Department spokesperson should reiterate that hate crimes will not be tolerated, will be investigated seriously, and will be prosecuted to the fullest extent of the law.

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The Department should consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

- Inform community organizations in a timely manner when a community group has been the target of a hate crime.
- Inform the community of the impact of these crimes on the victim, the victim's family, and the community, and of the assistance and compensation available to victims.
- Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.
- Provide the community with ongoing information regarding hate crimes and/or hate incidents.

## 339.5 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

### 339.5.1 INITIAL RESPONSE

First responding officers should know the role of all Department personnel as they relate to the Department's investigation of hate crimes and/or incidents. Responding officers should evaluate the need for additional assistance and, working with supervision and/or investigations, access needed assistance if applicable.

At the scene of a suspected hate or bias crime, officers should take preliminary actions reasonably deemed necessary, including but not limited to the following:

(a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).

(b) Stabilize the victims and request medical attention when necessary.

(c) Properly protect the safety of victims, witnesses, and perpetrators.

1. Assist victims in seeking a Temporary Restraining Order (if applicable).

(d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(e) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. Department personnel should follow up with the property owner to determine if this was accomplished in a timely manner.

(f) Collect and photograph physical evidence or indicators of hate crimes such as:

1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.

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(g) Identify criminal evidence on the victim.

(h) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.

(i) Conduct a preliminary investigation and record pertinent information including but not limited to:

1. Identity of suspected perpetrators.
2. Identity of witnesses, including those no longer at the scene.
3. The offer of victim confidentiality per Government Code § 7923.615.
4. Prior occurrences in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. The victim's protected characteristics and determine if bias was a motivation "in whole or in part" in the commission of the crime.

(j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.

(k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(l) Provide the Department's Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.

(m) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(n) Document any suspected multi-mission extremist crimes.

### 339.5.2 INVESTIGATION

Investigators at the scene of, or performing follow-up investigation on, a suspected hate or bias crime or hate incident should take all actions deemed reasonably necessary, including but not limited to the following:

(a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).

(b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.

(c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.

(e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:

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1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.
5. Desecration of religious symbols, objects, or buildings.

(f) Request the assistance of translators or interpreters when needed to establish effective communication.

(g) Conduct a preliminary investigation and record information regarding:

1. Identity of suspected perpetrators.
2. Identity of witnesses, including those no longer at the scene.
3. Offer of victim confidentiality per Government Code § 7923.615.
4. Prior occurrences, in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. Document the victim's protected characteristics.

(h) Provide victim assistance and follow-up.

(i) Canvass the area for additional witnesses.

(j) Examine suspect's social media activity for potential evidence of bias motivation.

(k) Coordinate the investigation with Department, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.

(l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Department.

(m) Determine if the incident should be classified as a hate crime.

(n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:

1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
2. Provide ongoing information to victims about the status of the criminal investigation.
3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).

(o) Document any suspected multi-mission extremist crimes.

(p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

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### 339.5.3 SUPERVISION

The supervisor shall confer with the initial responding officer and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

(a) Provide immediate assistance to the crime victim by:

1. Expressing the Department's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
2. Expressing the Department's interest in protecting victims' anonymity (confidentiality forms, Government Code § 7923.615) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a Department chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).

(b) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.

(c) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(d) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer to specific locations that could become targets).

(e) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.

(f) Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.

(h) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.

(i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.

(j) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief of Police for approval.

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## 339.6 TRAINING

All members of this Department will receive POST-approved training on hate crime recognition and investigation (Penal Code § 13519.6).

Training should include (Penal Code § 422.87):

(a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias, gender bias, and religion bias.

(b) Accurate reporting by officers, including information on the general underreporting of hate crimes.

(c) Distribution of hate crime brochures.

(d) When a gun violence restraining order may be appropriate for prevention of hate crimes (Penal Code § 13519.6).

## 339.7 APPENDIX

See attachments:

Statutes and Legal Requirements.pdf

Hate Crime Checklist.pdf

Supplemental Hate Crime Report.pdf

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# Standards of Conduct

## 341.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Palo Alto Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

## 341.2 POLICY

The continued employment or appointment of every member of the Palo Alto Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein, together with the City's Merit Rules and Regulations Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

## 341.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

### 341.3.1 UNLAWFUL ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

### 341.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

(a) Failure of a supervisor to take appropriate action to ensure that employees adhere to the policies and procedures of this department and the actions of all personnel comply with all laws.

(b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.

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(c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.

(d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

## 341.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

## 341.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

### 341.5.1 LAWS, RULES AND ORDERS

(a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.

(b) Disobedience of any legal directive or order issued by any department member of a higher rank.

(c) Violation of federal, state, local or administrative laws, rules or regulations.

### 341.5.2 ETHICS

(a) Using or disclosing one’s status as a member of the Palo Alto Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for nondepartment business or activity.

(b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.

(c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties or contrary to the laws of this state. (lawful subpoena fees and authorized work permits excepted).

(d) Offer or acceptance of a bribe or gratuity.

(e) Misappropriation or misuse of public funds, property, personnel or services.

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(f) Any other failure to abide by the standards of ethical conduct.

341.5.3 EFFICIENCY

(a) Neglect of duty.

(b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.

(c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.

(d) Unauthorized sleeping during on-duty time or assignments.

(e) Failure to notify the Department within 24 hours of any change in residence address, contact telephone numbers or marital status (if other person is a department employee).

341.5.4 PERFORMANCE

(a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any workrelated investigation.

(b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.

(c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any departmentrelated business.

(d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

(e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.

(f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:

1. While on department premises.
2. At any work site, while onduty or while in uniform, or while using any department equipment or system.
3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.

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(g) Improper political activity including:

1. Unauthorized attendance while onduty at official legislative or political sessions.
2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while onduty or, on department property except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.

(h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.

(i) Any act on or offduty that brings discredit to this department.

(j) Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.

(k) Failure to identify yourself by name and employee number when requested to do so by any member of the public.

### 341.5.5 CONDUCT

(a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.

(b) Unreasonable and unwarranted force to a person encountered or a person under arrest.

(c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.

(d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.

(e) Engaging in horseplay that reasonably could result in injury or property damage.

(f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.

(g) Use of obscene, indecent or derogatory language while on-duty or in uniform. No member shall use profane language while on-duty or in uniform, except under limited circumstances wherein the profane language is used as a deliberate verbal tactic with the specific intent to gain compliance or avoid a physical confrontation with an individual who is non-compliant, hostile or aggressive. Once such an individual complies and/or no longer poses a threat, officers are expected to refrain from continuing to use profane language.

(h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member’s relationship with this department.

(i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.

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(j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.

(k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.

(l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.

(m) Any other on or offduty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

### 341.5.6 SAFETY

(a) Failure to observe or violating department safety standards or safe working practices.

(b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).

(c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

(d) Unsafe firearm or other dangerous weapon handling and/or storage to include loading or unloading firearms in an unsafe manner, either on- or off- duty.

(e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.

(f) Unsafe or improper driving habits or actions in the course of employment or appointment.

(g) Any personal action contributing to a preventable traffic collision.

(h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

### 341.5.7 INTOXICANTS

(a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.

(b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

(c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

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### 341.5.8 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

### 341.5.9 RELATIONSHIPS

(a) Unwelcome solicitation of a personal or sexual relationship while onduty or through the use of one's official capacity.

(b) Engaging in onduty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

(c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.

(d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.

(e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

### 341.5.10 ATTENDANCE

(a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.

(b) Unexcused or unauthorized absence or tardiness.

(c) Excessive absenteeism or abuse of leave privileges.

(d) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

### 341.5.11 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

(a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this department.

1. Members of this department shall not disclose the name, address or image of any victim of human trafficking except as authorized by law (Penal Code § 293).

(b) Disclosing to any unauthorized person any active investigation information.

(c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial

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gain or without the express authorization of the Chief of Police or the authorized designee.

(d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Palo Alto Police Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.

(e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and nonsubpoenaed records.

## 341.6 INVESTIGATION OF DISCIPLINARY ALLEGATIONS

Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with Personnel Complaint Procedure Policy Manual § 1020. Pursuant to Government Code §§ 3304(d) and 3508.1, the investigation should be completed within one year of the discovery of the allegation unless such investigation falls within one of the exceptions delineated within those provisions.

## 341.7 POST INVESTIGATION PROCEDURES

### 341.7.1 DIVISION CAPTAIN RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Captain of the involved employee shall review the entire investigative file, the employee's personnel file and any other relevant materials.

The Division Captain may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

(a) Prior to forwarding recommendations to the Chief of Police, the Division Captain may return the entire investigation to the assigned detective or supervisor for further investigation or action.

(b) When forwarding any written recommendation to the Chief of Police, the Division Captain shall include all relevant materials supporting the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference.

### 341.7.2 RESPONSIBILITES OF THE CHIEF OF POLICE

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials.

The Chief of Police may modify any recommendation and/or may return the file to the Division Captain for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police, or their designee, shall determine the amount of discipline, if any, to be recommended.

In the event disciplinary action is recommended, the Chief of Police shall provide the employee with written (Skelly) notice of the following information within one year of the date of the discovery

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of the alleged misconduct (absent an exception set forth in Government Code § 3304(d) or Government Code § 3508.1):

(a) Specific charges set forth in separate counts, describing the conduct underlying each count.

(b) A separate recommendation of proposed discipline for each charge.

(c) A statement that the employee has been provided with or given access to all of the materials considered by the Chief of Police in recommending the proposed discipline.

(d) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the Skelly notice.

1. Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.

2. If the employee elects to respond orally, the presentation shall be recorded by the Department. Upon request, the employee shall be provided with a copy of the

recording.

### 341.8 EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

(a) This *Skelly* response is not intended to be an adversarial or formal hearing.

(b) Although the employee may be represented by an uninvolved representative or legal counsel, the *Skelly* response is not designed to accommodate the presentation of testimony or witnesses.

(c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.

(d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.

(e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

(f) Once the employee has completed his/her *Skelly* response or, if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. Once the Chief of Police determines that discipline will be imposed, a timely written decision shall be provided to the employee within 30 days, imposing, modifying or rejecting the recommended

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discipline. In the event of a termination, the final notice of discipline shall also inform the employee of the reason for termination and the process to receive all remaining fringe and retirement benefits.

(g) Once the Chief of Police has issued a written decision, the discipline shall become effective.

### 341.9 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file.

The tender of a retirement or resignation by itself shall not serve as grounds for the termination of pending discipline.

### 341.10 POST SKELLY PROCEDURE

In situations resulting in the imposition of a suspension, punitive transfer, demotion, termination of a non-probationary employee, the employee shall have the right to an evidentiary appeal of the Chief of Police's imposition of discipline pursuant to the operative Memorandum of Understanding (MOU) or collective bargaining agreement and personnel rules.

During any post-Skelly administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of penalty. (Government Code § 3305.5).

### 341.11 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES

In the event that a probationary employee is terminated solely for unsatisfactory performance or the failure to meet department standards, the employee shall have no right to appeal and the following shall be considered:

(a) Termination of a probationary employee for such failure to pass probation shall be so reflected in the employee's personnel file

(b) In the event that a probationary employee is disciplined or terminated for misconduct, the employee shall only be entitled to appeal the decision in the same manner as set forth in the *Skelly* procedure as set forth above. This appeal process may be held prior to or within a reasonable time after the imposition of discipline

(c) At all times during any investigation of allegations of misconduct involving a probationary officer, such officer shall be afforded all procedural rights set forth in Government Code § 3303 and applicable Department policies

(d) A probationary employee's appeal of disciplinary action shall be limited to an opportunity for the employee to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure, however, should be construed to establish any sort of property interest in or right to the employee's continuation of employment

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(e) The burden of proof for any probationary employee's appeal of disciplinary action shall rest with the employee and will require proof by a preponderance of the evidence

(f) In the event that a probationary employee meets his or her burden of proof in such a disciplinary appeal, the Department shall remove all reference to the underlying allegations of misconduct from the employee's personnel file

(g) In the event that a probationary employee fails to meet his or her burden of proof in such a disciplinary appeal, the employee shall have no further right to appeal beyond the Chief of Police

## 341.12 DISCIPLINARY ACTION AGAINST AT WILL EMPLOYEES

In the event that an at-will employee is disciplined or terminated the employee has no right to appeal the decision.

## 341.13 DELEGATION OF AUTHORITY/DISCIPLINARY ACTIONS

The City of Palo Alto Merit System Rules and Regulations, Chapter 10, defines disciplinary action as discharge, reduction in salary, reprimand, disciplinary probation or suspension.

Authorized management employees are delegated authority under §1003 of the City of Palo Alto Merit System Rules and Regulations to take disciplinary action for cause against an employee under his/her command.

Management employees authorized to take disciplinary action are:

(a) Police Chief;

(b) Assistant Police Chief;

(c) Technical Services Coordinator;

(d) Field Services Division Captain;

(e) Investigative Services Division Captain;

(f) Superintendent of Animal Services.

Such disciplinary action shall be limited to the reprimand and disciplinary probation for those causes defined in §1002 of the City of Palo Alto Merit System Rules and Regulations. For purging of an employees disciplinary file refer to City of Palo Alto Merit System Rules and Regulations §1026.

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# Information Technology Use

## 343.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

### 343.1.1 DEFINITIONS

Definitions related to this policy include:

**Computer system** - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Palo Alto Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the [Department/Office] or [department/office] funding.

**Hardware** - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

**Software** - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

**Temporary file, permanent file or file** - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

## 343.2 POLICY

It is the policy of the Palo Alto Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the [Department/Office] in a professional manner and in accordance with this policy.

## 343.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published, shared, transmitted, or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any [department/office] computer system.

The [Department/Office] reserves the right to access, audit, and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received, or reviewed over any technology that is issued or maintained by the [Department/Office], including the [department/office] email system, computer network, and/or any information placed into storage on any [department/office] system or device. This includes records of all keystrokes or Web-browsing history made at any [department/office] computer or over any [department/office] network. The fact that access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through [department/office] computers, electronic devices, or networks.

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The [Department/Office] shall not require a member to disclose a personal username or password for accessing personal social media or to open a personal social website; however, the [Department/Office] may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

## 343.4 RESTRICTED USE

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Watch Commanders.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

### 343.4.1 HARDWARE

Access to technology resources provided by or through the [Department/Office] shall be strictly limited to [department/office]-related activities. Data stored on or available through [department/office] computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or [department/office]-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

### 343.4.2 INTERNET USE

Internet access provided by or through the [Department/Office] shall be strictly limited to [department/office]-related activities. Internet sites containing information that is not appropriate or applicable to [department/office] use and which shall not be intentionally accessed include but are not limited to adult forums, pornography, gambling, chat rooms, and similar or related internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information shall be limited to messages, mail, and data files.

### 343.4.3 SOFTWARE

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any [department/office] computer. Members shall not install personal copies of any software onto any [department/office] computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Chief of Police or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the [Department/Office] while on [department/office] premises, computer systems

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or electronic devices. Such unauthorized use of software exposes the [Department/Office] and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as part of the automated maintenance or update process of [department/office]- or City-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

#### 343.4.4 OFF-DUTY USE

Members shall only use technology resources provided by the [Department/Office] while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access [department/office] resources.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

### 343.5 PROTECTION OF AGENCY SYSTEMS AND FILES

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the computer system.

Members shall ensure [department/office] computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information, and other individual security data, protocols, and procedures are confidential information and are not to be shared. Password length, format, structure, and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the internet) to a supervisor.

### 343.6 INSPECTION OR REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the [Department/Office] involving one of its members or a member’s duties, an alleged or suspected violation of

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any [department/office] policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the [department/office] computer system when requested by a supervisor or during the course of regular duties that require such information.

## 343.7 POLICY UPDATES

Updated: 5-3-17

Updated: 3-19-20

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# Report Preparation

## 345.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

### 345.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

## 345.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate [department/office] approved form unless otherwise approved by a supervisor.

### 345.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution. Activity to be documented in a written report includes:

(a) All arrests

(b) All felony crimes

(c) Non-Felony incidents involving threats or stalking behavior

(d) Situations covered by separate policy. These include:

1. Use of Force Policy
2. Domestic Violence Policy

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3. Child Abuse Policy
4. Senior and Disability Victimization Policy
5. Hate Crimes Policy
6. Suspicious Activity Reporting Policy

(e) All misdemeanor crimes where the victim desires a report

Misdemeanor crimes where the victim does not desire a report shall be documented using the [department/office]-approved alternative reporting method (e.g., dispatch log).

### 345.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

(a) Anytime an officer points a firearm at any person

(b) Any use of force against any person by a member of this [department/office] (see the Use of Force Policy)

(c) Any firearm discharge (see the Firearms Policy)

(d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)

(e) Any found property or found evidence

(f) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy)

(g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy

(h) All protective custody detentions

(i) Suspicious incidents that may place the public or others at risk

(j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

### 345.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigations Policy. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

(a) Sudden or accidental deaths.

(b) Suicides.

(c) Homicide or suspected homicide.

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(d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).

(e) Found dead bodies or body parts.

345.2.4 INJURY OR DAMAGE BY CITY PERSONNEL
Reports shall be taken if an injury occurs that is a result of an act of a City employee. Additionally, reports shall be taken involving damage to City property or City equipment. Whenever there is damage to a City vehicle, a City "Report of Accident/Property Damage" form shall be completed and forwarded to the appropriate Division Captain.

345.2.5 MISCELLANEOUS INJURIES
Any injury that is reported to this [department/office] shall require a report when:

(a) The injury is a result of drug overdose

(b) Attempted suicide

(c) The injury is major/serious, whereas death could result

(d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

345.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES
A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Technical Services Division shall notify the California Department of Public Health (CDPH) of the incident as required by CDPH (Penal Code § 23685).

## 345.3 GENERAL POLICY OF EXPEDITIOUS REPORTING
In general, all officers and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

## 345.4 REPORT CORRECTIONS
All reports shall be reviewed and approved by a supervisor. The reviewing supervisor shall be of greater rank than the reporting officer, except where this is not feasible and timely approval is required.

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should return the report to the reporting officer for correction as soon as practical. It shall be the responsibility of the reporting officer to ensure that any report returned for correction is processed in a timely manner.

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### 345.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Technical Services Division for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Technical Services Division may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

### 345.6 USE OF ARTIFICIAL INTELLIGENCE IN PREPARATION OF REPORTS

Artificial intelligence shall not be used in the preparation of reports.

The remainder of this section is included in this policy only because it is state law. It is included here for information only. If the Department authorizes the use of artificial intelligence in the preparation of reports in the future, this policy will be amended and the below sections will then take effect.

Official reports that are generated using artificial intelligence (AI) either fully or partially shall contain the following (Penal Code § 13663)

(a) On each page of an official report, or within the body of the text, identify every specific AI program used in a manner that makes such identification readily apparent to the reader and prominently state the following: "This report was written either fully or in part using artificial intelligence."

(b) The signature of the member who is preparing the official report, either in physical or electronic form, verifying that they reviewed the contents of the report and that the facts contained in the official report are true and correct. Except for the official report, a draft of any report created with the use of AI shall not constitute a member's statement.

For purposes of this section artificial intelligence means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. AI as used in this section applies to AI systems that automatically draft police report narratives based upon an analysis of in-car or dash-mounted cameras, or body-worn camera audio or video, and AI systems that analyze a law enforcement officer's dictated report to generate a police report narrative automatically enhanced by generative AI (Penal Code § 13663).

See the Generative Artificial Intelligence Use policy for additional guidance on generative AI.

#### 345.6.1 ARTIFICIAL INTELLIGENCE AUDIT TRAIL

The [Department/Office] shall maintain an audit trail for AI generated first drafts or official reports for as long as the official report is retained that, at a minimum, identifies both of the following (Penal Code § 13663):

(a) The name of the person who used AI to create the report.

(b) The video and audio footage that is used to create a report, if any.

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# Media Relations

## 347.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of official [department/office] information to the media. It also addresses coordinating media access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities.

## 347.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. The Chief of Police shall designate certain Department personnel to serve as Press Information Officers ([PIO]s), who may prepare and release information to the media in accordance with this policy and the applicable laws regarding confidentiality.

## 347.3 ACCESS

Authorized media representatives shall be provided access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities as required by law.

Access by the media is subject to the following conditions (Penal Code § 409.5(d)):

(a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public. Media representatives may not bring or facilitate the transport of an unauthorized person into a closed area unless it is for the safety of the person.

(b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.

    1. Based upon available resources, reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the [PIO] or other designated spokesperson.

(c) No member of this [department/office] who is under investigation shall be subjected to media visits or interviews without the consent of the involved member (Government Code § 3303(e)).

(d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

### 347.3.1 CRITICAL OPERATIONS

A critical incident or tactical operation should be handled in the same manner as a crime scene, except the media should not be permitted within the inner perimeter of the incident, subject to any restrictions as determined by the supervisor in charge. [Department/Office] members shall not jeopardize a critical incident or tactical operation in order to accommodate the media. All comments to the media shall be coordinated through a [PIO].

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347.3.2 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft pose a threat to public or member safety or significantly hamper incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration (FAA) should be contacted (14 CFR 91.137). The Watch Commander shall promptly notify a [PIO] if a TFR is requested.

## 347.4 POLICY

It is the policy of the Palo Alto Police Department to protect the privacy rights of individuals, while releasing non-confidential information to the media regarding topics of public concern. Information that has the potential to negatively affect investigations will not be released.

## 347.5 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of [department/office] members and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at a minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person, or is otherwise prohibited by law.

## 347.6 MEDIA REQUESTS

Any media request for information or access to a law enforcement incident shall be referred to the [PIO], or if unavailable, to the first available supervisor. Prior to releasing any information to the media, members shall consider the following:

(a) At no time shall any member of this [department/office] make any comment or release any official information to the media without prior approval from a supervisor or the [PIO].

(b) In situations involving multiple agencies or government departments, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this [department/office].

(c) Under no circumstance should any member of this [department/office] make any comments to the media regarding any law enforcement incident not involving this [department/office] without prior approval of the Chief of Police. Under these circumstances the member should direct the media to the agency handling the incident.

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## 347.7 CONFIDENTIAL OR RESTRICTED INFORMATION

It shall be the responsibility of the [PIO] to ensure that confidential or restricted information is not inappropriately released to the media (see the Records Maintenance and Release and Personnel Records policies). When in doubt, [PIO]s should consult with the Records Manager and/or City's Atorney's Office as appropriate prior to releasing any information.

### 347.7.1 EMPLOYEE INFORMATION

The identities of officers involved in shootings or other critical incidents may only be released to the media upon the consent of the involved officer or upon a formal request filed.

Any requests for copies of related reports or additional information not contained in the Police Report Log (see the Police Report Log section in this policy), including the identity of officers involved in shootings or other critical incidents, shall be referred to the [PIO].

[PIO]s shall consult with the Records Managers on such requests, and ensure that they are processed in accordance with public records law and also Policy 810, Records Maintenance and Release.

## 347.8 RELEASE OF INFORMATION

The [Department/Office] may routinely release information to the media without receiving a specific request. This may include media releases regarding critical incidents, information of public concern, updates regarding significant incidents, or requests for public assistance in solving crimes or identifying suspects. This information may also be released through the [department/ office] website or other electronic data sources.

### 347.8.1 POLICE REPORT LOG

The [Department/Office] will maintain a Police Report Log of significant law enforcement activities. Log entries shall only contain information that is deemed public information and not restricted or confidential by this policy or applicable law. The Records Unit will ensure that the Police Report Log is distributed every business day to approved media representatives, with a public version posted to the Department's website at www.paloalto.gov/PAPDReportLog

The Police ReportLog will generally include:

(a) The date, time, location, case number, type of crime, and extent of injury or loss, of crimes occurring within this jurisdiction, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation, or the information is confidential (e.g., juveniles or certain victims).

(b) The date, time, location, case number, name, birth date, and charges for each person arrested by this [department/office], unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation or the information is confidential (e.g., juveniles).

(c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident.

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At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim, or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the Watch Commander (Welfare and Institutions Code § 827.5).

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the [Medical Examiner/JOP].

Any requests by the media for copies of related reports or additional information not contained in this log shall be referred to the [PIO]s. [PIO]s should consult with the Records Manager. Such requests will generally be processed in accordance with the provisions of the Public Records Act (see the Records Maintenance and Release Policy).

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# Subpoenas and Court Appearances

## 349.1 PURPOSE AND SCOPE

This policy establishes the guidelines for [department/office] members who must appear in court. It will allow the Palo Alto Police Department to cover any related work absences and keep the [Department/Office] informed about relevant legal matters.

## 349.2 POLICY

Palo Alto Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

### 349.2.1 OFFICER'S RESPONSIBILITIES (CRIMINAL SUBPOENA)

Once an officer receives a criminal subpoena, he or she is required to do the following:

(a) Complete and return the top portion of the subpoena to the Court Liaison Officer immediately;

(b) Contact the Deputy District Attorney that is assigned to the case;

(c) If the officer is the primary investigating officer for the case, ensure that any and all civilian witnesses are served with subpoenas in a timely manner;

(d) Notify the Court Liaison Officer of any witnesses that are unavailable or cannot be served;

(e) Complete and return all civilian subpoena "Proof of Service" forms to the Court Liaison Officer prior to the court date;

If the officer becomes ill or has an emergency and is unable to attend the court appearance, the officer shall contact the Deputy District Attorney as soon as possible.

### 349.2.2 CRIMINAL SUBPOENAS FROM ANOTHER COUNTY

If an officer assisted a law enforcement agency in San Mateo County, he or she may receive a subpoena from the San Mateo County District Attorney's Office. The officer should complete the proof of service on the subpoena and immediately return it to the Court Liaison Officer.

## 349.3 SUBPOENAS

Only [department/office] members authorized to receive a subpoena on behalf of this [department/office] or any of its members may do so. This may be accomplished by personal service to the officer or by delivery of two copies of the subpoena to the officer's supervisor or other authorized [department/office] agent (Government Code § 68097.1; Penal Code § 1328(c)).

The party that issues a civil subpoena to an officer to testify as a witness must tender the statutory fee of $275 with the subpoena for each day that an appearance is required before service is accepted of the subpoena (Government Code § 68097.2).

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An immediate supervisor or authorized individual may refuse to accept service for a criminal subpoena if (Penal Code § 1328(d)(e)):

(a) He/she knows that he/she will be unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena.

(b) It is less than five working days prior to the date listed for an appearance and he/she is not reasonably certain that service can be completed.

If, after initially accepting service of a criminal subpoena, a supervisor or other authorized individual determines that he/she is unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

### 349.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

(a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.

(b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.

(c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.

(d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Palo Alto Police Department.

(e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Palo Alto Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

### 349.3.2 CIVIL SUBPOENA

The [Department/Office] will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current memorandum of understanding or collective bargaining agreement.

The [Department/Office] should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

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### 349.3.3 OFF-DUTY RELATED SUBPOENAS

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

## 349.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

## 349.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the [Department/Office].

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

## 349.6 COURTROOM PROTOCOL

When appearing in court, members shall:

(a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.

(b) Dress in the [department/office] uniform or business attire.

(c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

### 349.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

## 349.7 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current memorandum of understanding or collective bargaining agreement.

## 349.8 TRAFFIC SUBPOENAS

All subpoenas for traffic court are sent directly by the court to the Court Liaison Officer. The Court Liaison Officer distributes the traffic subpoenas to the individually named officer through his or her chain of command. Additionally, the Court Liaison Officer will place the scheduled traffic court appearance on the "Court Boards" located in the Field Services Division briefing room and the hallway of the Investigative Services Division.

### 349.8.1 OFFICER'S RESPONSIBILITIES (TRAFFIC SUBPOENA)

Any officer who receives a traffic court subpoena is required to be present on the scheduled date and time.

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Valid reasons for an officer to request a continuance are illness, previously approved training, or a planned vacation. Regular days off are not valid reasons for requesting a continuance. Additionally, if a court appearance happens to be scheduled during a time that the employee would typically be asleep, that is not a valid reason for missing court.

If an officer has a valid reason for requesting a continuance as noted above, then he or she should:

(a) Obtain their immediate supervisor's approval and signature on the Traffic Court Notification Form, approving the request for a continuance;

(b) Notify the Court Liaison Officer as soon as possible by completing and returning the Traffic Court Notification Form. The specific reason for the requested continuance shall be listed;

(c) If the officer suffers from an illness or an emergency on the scheduled traffic court appearance date, the officer must call the traffic court directly. The phone number for the traffic court is listed on the Traffic Court Notification Form.

#### 349.8.2 TRIAL BY DECLARATION

A Trial by Declaration is essentially a traffic trial done via writing. The Court Liaison officer receives the paperwork from the Palo Alto traffic court. Upon receiving the notice, the Court Liaison officer attaches a label to the paperwork with a due date on it and distributes it to the officer. The officer must complete his or her testimony in writing. The officer must complete and return the paperwork to the Court Liaison officer by the listed date.

#### 349.8.3 TRAFFIC SUBPOENAS FROM ANOTHER COUNTY

If an officer receives a traffic subpoena from another county, the officer should follow the directions listed on the subpoena for the appearance requirements.

### 349.9 DMV - ADMIN PER SE HEARING (DS 367)

The Department of Motor Vehicles mails subpoenas to the Court Liaison officer. It is the policy of the Department that officers respond to these subpoenas the same as any other.

#### 349.9.1 APPEARANCE IN PERSON

If the officer is required to appear in person, the subpoena will indicate this with the appropriate box checked. The DMV address will be listed on the subpoena as to where to appear. The officer does not need to do anything unless there is a problem with appearing on the specified date. If the officer cannot appear, he or she must contact the hearing officer immediately upon receipt of the subpoena to let them know why they cannot be there. The hearing officer's name and phone number are always listed on the subpoena. The only valid reasons for not appearing are sickness, training, or pre-approved vacation.

#### 349.9.2 APPEARANCE BY TELEPHONE

The box labeled "respond by telephoning the above number at the date and time listed above" may be checked on the subpoena. If this is the case, the officer needs to call the listed phone number at the specified date and time to have the hearing conducted over the telephone. If the

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officer cannot call at the specified date and time, they must call the hearing officer immediately upon receipt of the subpoena. The hearing officer's name and phone number are always listed on the subpoena.

The box labeled "be available for a call by telephone at this number" may be checked on the subpoena. If so, the hearing officer expects the officer to be available to receive a telephone call at the listed phone number at the date and time specified on the subpoena (in this type of subpoena, the number usually listed is the main Communications number of 650-329-2413). If the officer will not be available to receive a call at the specified number, he or she must contact the hearing officer immediately upon receipt of the subpoena.

The only valid reasons for not appearing by telephone are sickness, training, or pre-approved vacation.

349.9.3 PRODUCE RECORDS

There will be an affidavit attached to the subpoena listing the records that the officer needs to produce at the hearing (usually PAS calibrations, etc). The same procedure for the "appearance in person," as described above, should be followed.

## 349.10 PAROLE REVOCATION HEARINGS

The Board of Prison Terms mails subpoenas to the Department for parole revocation hearings. The officer is required to appear at the listed date, time, and place on the subpoena. Such hearings are usually held at the Santa Clara County Main Jail, the Alameda County Santa Rita Jail, or at San Quentin State Prison. If the officer is unable to appear at the hearing they must contact the Parole Revocation Unit at the listed prison facility immediately upon receipt of the subpoena.

The only valid reasons for not appearing are sickness, training, and pre-approved vacation.

## 349.11 POLICY ISSUE DATE

1/04/2018

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# Reserve Officers

## 351.1 PURPOSE AND SCOPE

The Palo Alto Police Department Reserve Unit was established to supplement and assist regular sworn police officers in their duties. This unit provides professional, sworn volunteer reserve officers who can augment regular staffing levels.

## 351.2 SELECTION & APPOINTMENT OF POLICE RESERVE OFFICERS_DEPUTIES

The Palo Alto Police Department shall endeavor to recruit and appoint to the Reserve Unit only those applicants who meet the high ethical, moral and professional standards set forth by this department.

### 351.2.1 PROCEDURE

All applicants shall be required to meet and pass the same pre-employment procedures as regular police officers before appointment.

Before appointment to the Police Reserve Unit, an applicant must have completed, or be in the process of completing, a POST approved basic academy or extended basic academy.

### 351.2.2 APPOINTMENT

Applicants who are selected for appointment to the Police Reserve Unit shall, on the recommendation of the Chief of Police, be sworn in by the Chief of Police and take a loyalty oath to observe and obey all of the laws of the land and to carry out their duties to the best of their ability.

### 351.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS

Compensation for reserve officers is provided as follows:

All reserve officer appointees are issued two sets of uniforms and all designated attire and safety equipment. All property issued to the reserve officer shall be returned to the Department upon termination or resignation. Reserves shall receive a yearly allowance of uniforms equal to that of regular officers.

All reserve officers are compensated at an hourly rate as set forth in the current City's Compensation Schedule.

## 351.3 DUTIES OF RESERVE OFFICERS

Reserve officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of reserve officers will usually be to augment the Field Services Division. Reserve officers may be assigned to other areas within the Department as needed. Reserves are required to work designated City sponsored special events and Stanford football games. Absences must be satisfactorily explaned to the Reserve Coordinator and approved prior to absence. Reserve officers are required to work a minimum of 10 hours per month.

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351.3.1 POLICY COMPLIANCE
Police reserve officers shall be required to adhere to all departmental policies and procedures. A copy of the policies and procedures will be made available to each reserve officer upon appointment and he/she shall become thoroughly familiar with these policies.

Whenever a rule, regulation, or guideline in this manual refers to a sworn regular full-time officer, it shall also apply to a sworn reserve officer unless by its nature it is inapplicable.

351.3.2 RESERVE OFFICER ASSIGNMENTS
All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

351.3.3 RESERVE COORDINATOR
The Chief of Police shall delegate the responsibility for administering the Reserve Officer Program to a Reserve Coordinator.

The Reserve Coordinator shall have the responsibility of, but not be limited to:

(a) Assignment of reserve personnel

(b) Conducting reserve meetings

(c) Establishing and maintaining a reserve call-out roster

(d) Maintaining and ensuring performance evaluations are completed

(e) Monitoring individual reserve officer performance

(f) Monitoring overall Reserve Program

(g) Maintaining liaison with other agency Reserve Coordinators

## 351.4 FIELD TRAINING
Penal Code § 832.6(a)(2) requires Level I reserve officers, who have not been released from the immediate supervision requirement per Policy Manual § 350.4.7, to work under the immediate supervision of a peace officer who possesses a Basic POST Certificate.

351.4.1 TRAINING OFFICERS
Officers of this department, who demonstrate a desire and ability to train reserve officers, may train the reserves during Phase II, subject to Watch Commander approval.

351.4.2 PRIMARY TRAINING OFFICER
Upon completion of the Academy, reserve officers will be assigned to a primary training officer. The primary training officer will be selected from members of the Field Training Officer (FTO) Committee. The reserve officer will be assigned to work with his/her primary training officer during the first 160 hours of training. This time shall be known as the Primary Training Phase.

351.4.3 FIELD TRAINING MANUAL
Each new reserve officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly

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function as an officer with the Palo Alto Police Department. The reserve officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

### 351.4.4 COMPLETION OF THE PRIMARY TRAINING PHASE

At the completion of the Primary Training Phase, (Phase I) the primary training officer will meet with the Reserve Coordinator. The purpose of this meeting is to discuss the progress of the reserve officer in training.

If the reserve officer has progressed satisfactorily, he/she will then proceed to Phase II of the training. If he/she has not progressed satisfactorily, the Reserve Coordinator will determine the appropriate action to be taken.

### 351.4.5 SECONDARY TRAINING PHASE

The Secondary Training Phase (Phase II) shall consist of 100 hours of additional on-duty training. The reserve officer will no longer be required to ride with his/her primary training officer. The reserve officer may now ride with any officer designated by the Watch Commander.

During Phase II of training, as with Phase I, the reserve officer's performance will be closely monitored. In addition, rapid progress should continue towards the completion of the Officer's Field Training Manual. At the completion of Phase II of training, the reserve officer will return to his/her primary training officer for Phase III of the training.

### 351.4.6 THIRD TRAINING PHASE

Phase III of training shall consist of 24 hours of additional on-duty training. For this training phase, the reserve officer will return to his/her original primary training officer. During this phase, the training officer will evaluate the reserve officer for suitability to graduate from the formal training program.

At the completion of Phase III training, the primary training officer will meet with the Reserve Coordinator. Based upon the reserve officer's evaluations, plus input from the primary training officer, the Reserve Coordinator shall decide if the reserve officer has satisfactorily completed his/her formal training. If the reserve officer has progressed satisfactorily, he/she will then graduate from the formal training process. If his/her progress is not satisfactory, the Reserve Coordinator will decide upon the appropriate action to be taken.

### 351.4.7 COMPLETION OF THE FORMAL TRAINING PROCESS

When a reserve officer has satisfactorily completed all three phases of formal training, he/she will have had a minimum of 284 hours of on-duty training. He/she will no longer be required to ride with a reserve training officer. The reserve officer may now be assigned to ride with any officer for the remaining 200-hour requirement for a total of 484 hours before being considered for relief of immediate supervision.

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## 351.5 SUPERVISION OF RESERVE OFFICERS

Reserve officers who have attained the status of Level II shall be under the immediate supervision of a regular sworn officer (Penal Code 832.6(a)(2)). The immediate supervision requirement shall also continue for reserve officers who have attained Level I status unless special authorization is received from the Reserve Coordinator with the approval of the Division Captain.

### 351.5.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the Division Captain, be relieved of the "immediate supervision" requirement. Level I reserve officers may function under the authority of Penal Code § 832.6(a)(1) only for the duration of the assignment or purpose for which the authorization was granted.

In the absence of the Reserve Coordinator and the Division Captain, the Watch Commander may assign a certified Level I reserve officer to function under the authority of Penal Code § 832.6(a)(1) for specific purposes and duration.

### 351.5.2 RESERVE OFFICER MEETINGS

All reserve officer meetings will be scheduled and conducted by the Reserve Coordinator. All reserve officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the Reserve Coordinator.

### 351.5.3 IDENTIFICATION OF RESERVE OFFICERS

All reserve officers will be issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full-time officer. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

### 351.5.4 UNIFORM

Reserve officers shall conform to all uniform regulation and appearance standards of this department.

### 351.5.5 INVESTIGATIONS AND COMPLAINTS

If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, at the discretion of the Field Services Division Captain.

Reserve officers are considered at-will employees. Government Code § 3300 et seq. applies to reserve officers with the exception that the right to hearing is limited to the opportunity to clear their name.

Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

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### 351.5.6 RESERVE OFFICER EVALUATIONS

While in training reserves will be continuously evaluated using standardized daily and weekly observation reports. The reserve will be considered a trainee until all of the training phases have been completed. Reserves having completed their field training will be evaluated annually using performance dimensions applicable to the duties and authorities granted to that reserve.

## 351.6 FIREARMS REQUIREMENTS

Penal Code § 830.6(a)(1) designates a reserve officer as having peace officer powers during his/her assigned tour of duty, provided the reserve officer qualifies or falls within the provisions of Penal Code § 832.6.

### 351.6.1 CARRYING WEAPON ON DUTY

Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on-duty. It is the policy of this department to allow reserves to carry firearms only while on-duty or to and from duty.

### 351.6.2 CONCEALED FIREARMS PROHIBITED

No reserve officer will be permitted to carry a concealed firearm while in an off-duty capacity, other than to and from work, except those reserve officers who possess a valid CCW permit. An instance may arise where a reserve officer is assigned to a plainclothes detail for his/her assigned tour of duty. Under these circumstances, the reserve officer may be permitted to carry a weapon more suited to the assignment with the knowledge and approval of the supervisor in charge of the detail.

Any reserve officer who is permitted to carry a firearm other than the assigned duty weapon may do so only after verifying that the weapon conforms to departmental standards. The weapon must be registered by the reserve officer and be inspected and certified as fit for service by a departmental armorer.

Before being allowed to carry any optional firearm during an assigned tour of duty, the reserve officer shall have demonstrated his/her proficiency with said weapon.

When a reserve officer has satisfactorily completed all three phases of training (as outlined in Policy Manual § 350.4), he/she may be issued a permit to carry a concealed weapon. The decision to issue a concealed weapon permit will be made by the Chief of Police with input from the Reserve Program Coordinator and administrative staff. In issuing a concealed weapon permit a reserve officer's qualification will be individually judged. A reserve officer's dedication to the program and demonstrated maturity, among other factors, will be considered before a concealed weapon permit will be issued. Once issued, the concealed weapon permit will be valid only for as long as the reserve officer remains in good standing with the Palo Alto Police Department Reserve Officer Program.

### 351.6.3 RESERVE OFFICER FIREARM TRAINING

All reserve officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall comply with all areas of the firearms training section of the Policy Manual, with the following exceptions:

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(a) All reserve officers are required to qualify quarterly

(b) Should a reserve officer fail to qualify, that reserve officer will not be allowed to carry a firearm until he/she has reestablished his/her proficiency

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# Outside Agency Assistance

## 353.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

### 353.1.1 MUTUAL AID PROTOCOL

Officers shall follow the guidelines set forth in the Santa Clara County Protocols Section 16 - Mutual Aid Protocol when requesting formal Law Enforcement Mutual Aid at the Operational Area level. Personnel shall read and follow the guidelines set forth in the Santa Clara County Protocols Section 16 - Mutual Aid Protocol.

## 353.2 POLICY

It is the policy of the Palo Alto Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

## 353.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Watch Commander's office for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Watch Commander may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency.

### 353.3.1 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Palo Alto Police Department shall notify his/her supervisor or the Watch Commander and the Communications Center as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

## 353.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

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The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

### 353.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities may be documented in a crime report or as directed by the Watch Commander.

### 353.6 POLICY ISSUE DATE

Updated 12-8-16

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# Registered Offender Information

## 357.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Palo Alto Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the [Department/ Office] will disseminate information and respond to public inquiries for information about registered sex, arson and drug offenders.

## 357.2 POLICY

It is the policy of the Palo Alto Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

## 357.3 REGISTRATION

The Investigative Services supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome, or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the investigator shall ensure that the registration information is provided to the California Department of Justice (DOJ) in accordance with applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

### 357.3.1 CONTENTS OF REGISTRATION

The information collected from the registering offenders shall include a signed statement as required by the California DOJ, fingerprints and a photograph, and any other information required by applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

## 357.4 MONITORING OF REGISTERED OFFENDERS

The Investigative Services supervisor should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

(a) Efforts to confirm residence using an unobtrusive method, such as an internet search or drive-by of the declared residence.

(b) Review of information on the California DOJ website for sex offenders.

(c) Contact with a registrant’s parole or probation officer.

Any discrepancies should be reported to the California DOJ.

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The Investigative Services supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Palo Alto Police Department personnel, including timely updates regarding new or relocated registrants.

## 357.5 DISSEMINATION OF PUBLIC INFORMATION

Members will not unilaterally make a public notification advising the community of a particular registrant's presence in the community. Members who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on sex registrants should be provided the Megan's Law website or the Palo Alto Police Department's website. Information on sex registrants placed on the Palo Alto Police Department's website shall comply with the requirements of Penal Code § 290.46.

The Records Manager may release local registered offender information to residents only in accordance with applicable law and in compliance with a California Public Records Act request (Government Code § 7920.000 et seq.; Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1).

### 357.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the internet website, to be released to a campus community (Penal Code § 290.01(d)):

(a) The offender’s full name

(b) The offender’s known aliases

(c) The offender’s sex

(d) The offender’s race

(e) The offender’s physical description

(f) The offender’s photograph

(g) The offender’s date of birth

(h) Crimes resulting in the registration of the offender under Penal Code § 290

(i) The date of last registration

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

### 357.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

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(a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.

(b) The information is provided as a public service and may not be current or accurate.

(c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.

(d) The crime for which a person is convicted may not accurately reflect the level of risk.

(e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

(f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

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# Major Incident Notification

## 359.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

## 359.2 POLICY

The Palo Alto Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

## 359.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and other key staff. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides;
- Traffic accidents with fatalities;
- Officer-involved shooting - on or off duty (see Officer-Involved Incidents Policy for special notifications);
- Significant use of force;
- Police canine bite;
- Significant injury or death to employee - on or off duty;
- Death of a prominent Palo Alto official;
- Arrest of a department employee or prominent Palo Alto official;
- Aircraft crash with major damage and/or injury or death;
- A Taser application;
- In-custody deaths.

## 359.4 WATCH COMMANDER RESPONSIBILITY

The Watch Commander is responsible for making sure Communications has made the appropriate initial notifications per the Critical Incident Notification Protocol (confidential document) or conducting notifications directly. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible and coordinate with Communications on more in-depth debriefing of key staff.

### 359.4.1 STAFF NOTIFICATION

Department and other key staff are specified in the Critical Incident Notification Protocol.

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### 359.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the immediate supervisor of the appropriate detail shall be contacted who will then contact the appropriate detective.

### 359.4.3 S.T.A.R NOTIFICATION

In the event of a traffic fatality or major injury, the supervisor of the Specialized Traffic Accident Reconstruction team shall be notified who will then contact the appropriate accident investigator. The supervisor of the S.T.A.R team will notify the Traffic Lieutenant.

### 359.4.4 PRESS INFORMATION OFFICER (PIO)

The Press Information Officer shall be called after members of staff have been notified that it appears the media may have a significant interest in the incident.

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# Death Investigation

## 361.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers initially respond to and investigate the circumstances of a deceased person.

Some causes of death may not be readily apparent, and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations and use of appropriate resources and evidence gathering techniques is critical.

## 361.2 INVESTIGATION CONSIDERATIONS

Emergency medical services shall be called in all suspected death cases unless the death is obvious (e.g., decapitated, decomposed).

A supervisor shall be notified as soon as possible to assist and provide appropriate personnel and resources. The on-scene supervisor should determine whether follow-up investigation is required and notify the Investigative Services Division Commander as necessary. The Watch Commander will make notification to command staff in accordance with the Major Incident Notification Policy.

### 361.2.1 [MEDICAL EXAMINER/JOP] REQUEST

Government Code § 27491 and Health and Safety Code § 102850 direct the [Medical Examiner/JOP] to inquire into and determine the circumstances, manner, and cause of certain deaths. The [Medical Examiner/JOP] shall be called in any of the following cases:

(a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. This also includes all deaths outside hospitals and nursing care facilities.)

(b) Deaths where the deceased has not been attended by either a physician or a registered nurse who is a member of a hospice care interdisciplinary team, as defined by Health and Safety Code § 1746, in the 20 days prior to death

(c) Deaths where the physician is unable to state the cause of death. Unwillingness does not apply. This includes all sudden, unexpected, and unusual deaths, and fetal deaths when the underlying cause is unknown.

(d) Known or suspected homicide

(e) Known or suspected suicide (including suicide where the deceased has a history of being victimized by domestic violence)

(f) Deaths involving any criminal action or suspicion of a criminal act. This includes child and dependent adult negligence and abuse.

(g) Deaths related to or following known or suspected self-induced or criminal abortion

(h) Deaths associated with a known or alleged rape or crime against nature

(i) Deaths following an accident or injury (primary or contributory). This includes deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.

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(j) Deaths from drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation, or aspiration

(k) Deaths from accidental poisoning (e.g., food, chemical, drug, therapeutic agents)

(l) Deaths from occupational diseases or occupational hazards

(m) Deaths from known or suspected contagious disease and constituting a public hazard

(n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room, or elsewhere

(o) Deaths that occur in prison or while under sentence. This includes all in-custody and police-involved deaths.

(p) All deaths of unidentified persons

(q) All deaths of state hospital patients

(r) Suspected Sudden Infant Death Syndrome (SIDS) deaths

(s) All deaths where the patient is comatose throughout the period of the physician's attendance. This includes patients that are admitted to hospitals unresponsive and expire without regaining consciousness.

The body shall not be disturbed or moved from the position or place of death without permission of the [Medical Examiner/JOP].

### 361.2.2 SEARCHING DEAD BODIES

(a) The [Medical Examiner/JOP] or a designee is generally the only person permitted to search a body known to be dead from any of the circumstances set forth in Government Code § 27491. The only exception is that an officer is permitted to search the body of a person killed in a traffic collision for the limited purpose of locating an anatomical donor card. If such a donor card is located, the [Medical Examiner/JOP] or a designee shall be promptly notified (Government Code § 27491.3).

(b) The [Medical Examiner/JOP], with the permission of the [Department/Office], may take property, objects, or articles found on the deceased or in the immediate vicinity of the deceased that may be necessary for conducting an investigation to determine the identity of the deceased or the cause or manner of death (Government Code § 27491.3).

(c) Should exigent circumstances indicate to an officer that any other search of a known dead body is warranted prior to the arrival of the [Medical Examiner/JOP] or a designee, the investigating officer should first obtain verbal consent from the [Medical Examiner/JOP] or a designee (Government Code § 27491.2).

(d) Whenever reasonably possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain nearby the scene and available to the officer pending the arrival of the [Medical Examiner/JOP] or a designee. The name and address of this person shall be included in the narrative of the death report.

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(e) Whenever personal effects are removed from the body of the deceased by the [Medical Examiner/JOP] or a designee, a receipt shall be obtained. This receipt shall be attached to the death report.

361.2.3 REPORTING
All incidents involving a death shall be documented on the appropriate form.

361.2.4 SUSPECTED HOMICIDE
If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the officer shall take steps to protect the scene. The Investigative Services shall be notified to determine the possible need for an investigator to respond to the scene.

If the on-scene supervisor, through consultation with the Watch Commander or Investigative Services supervisor, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide.

The investigator assigned to investigate a homicide or death that occurred under suspicious circumstances may, with the approval of their supervisor, request the [Medical Examiner/JOP] to conduct physical examinations and tests, and to provide a report.

361.2.5 EMPLOYMENT-RELATED DEATHS OR INJURIES
Any member of this agency who responds to a death, serious illness, or serious injury and determines that it has occurred as a result of an accident at or in connection with the victim's employment shall ensure that the nearest office of Cal-OSHA is notified by telephone immediately or as soon as practicable with all pertinent information (8 CCR 342(b)).

361.2.6 DEATHS OF VICTIMS WITH AN IDENTIFIABLE HISTORY OF VICTIMIZED DOMESTIC VIOLENCE
Prior to making any findings as to the manner and cause of death of a deceased individual with an identifiable history of being victimized by domestic violence, investigating officers should consider factors identified in Penal Code § 679.07 (e.g., premature or untimely death, partner wanting to end relationship, scene gives appearance of death due to suicide or accident) and proceed with the investigation according to the code's requirements.

## 361.3 GENERAL CONSIDERATIONS

(a) Initially, the scene of a death should be treated as if it were a homicide until such time as it can be determined otherwise.

(b) Investigative reports shall be written in all but attended death cases where the doctor will sign the death certificate. Refer to Palo Alto Police Department's Offense/ Classification guide for the proper headings.

(c) Motor vehicle fatalities will be investigated by patrol and documented according to Policy 502 Traffic Collision Reporting. The on-duty supervisor shall notify the Specialized Traffic Accident Reconstruction Team (STAR) to assist in cases of fatal or major injury collisions.

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(d) The coroner shall be notified in all death cases. Release numbers shall be obtained verbally, and entered into CAD notes, in all attended death cases. The name of the coroner contacted shall be included in all investigative reports. Unless released by the coroner, an officer shall remain on the scene until the coroner's arrival.

(e) In all death cases, no attempt shall be made to move, search or alter the body except by the coroner, the coroner's investigator, or after the coroner's release. Exceptions to this rule shall be limited to situations in which there is a danger to human life or a likelihood of the destruction of evidence (i.e., fire scenes, etc.).

(f) Photographs will be taken, and a diagram will be drawn in all death cases, except those where a doctor will sign the death certificate.

(g) The Watch Commander shall immediately be notified of all death investigations. The Watch Commander shall, as soon as practical, notify the ISD Body Crimes Supervisor in any suspicious death. In all homicides, the Watch Commander shall notify the FSD Coordinator.

(h) Weapons should not be handled unless their loss or destruction is likely. Firearms should not be unloaded unless there is an imminent chance of discharge.

The function of patrol officers at the scene of a homicide or questioned death shall be limited to the following: securing of that scene, a search for suspects, witnesses or additional victims, the rendering of any necessary medical aid and the notification of the patrol supervisor and Watch Commander. Evidence collection, crime scene search and the interviewing of suspects and witnesses shall be conducted by, or under the supervision of, the detective assigned.

#### 361.3.1 POST-MORTEM SEXUAL ASSAULT EXAMINATIONS

The Santa Clara County Protocols Section 18 - Post-Mortem Sexual Assault Examinations shall be utilized as a guideline in all cases where investigators suspect a homicide and sexual assault. All personnel are required to read and follow the Santa Clara County Protocols Section 18 - Post-Mortem Sexual Assault Examinations Protocol.

#### 361.3.2 AUTOPSY ATTENDANCE

Santa Clara County Protocols Section 23 - Autopsy Attendance Protocol shall be utilized as a guideline for autopsy attendance by law enforcement personnel. All personnel are required to read and follow the Santa Clara County Protocols Section 23 - Autopsy Attendance Protocol.

## 361.4 POLICY

It is the policy of the Palo Alto Police Department to respond to, document, and investigate incidents where a person is deceased. Investigations involving the death of a person, including deaths from natural causes, accidents, workplace incidents, suicide, and homicide, shall be initiated, conducted, and properly documented.

## 361.5 UNIDENTIFIED DEAD BODY

If the identity of a dead body cannot be established, the handling officer will request from the [Medical Examiner/JOP] a unique identifying number for the body. The number shall be included in any report.

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## 361.6 DEATH NOTIFICATION

When reasonably practicable, and if not handled by the [Medical Examiner/JOP]'s Office, notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification.

If a deceased person has been identified as a missing person, this [department/office] shall attempt to locate family members and inform them of the death and location of the deceased missing person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports.

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# Identity Theft

## 363.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

This policy is drafted in accordance with the Santa Clara County Protocols Section 15 - Identity Theft Protocol. Personnel shall read and follow the guidelines set forth in the Santa Clara County Protocols Section 15 - Identity Theft Protocol when investigating identity theft.

## 363.2 REPORTING

(a) In an effort to maintain uniformity in reporting, officers presented with the crime of "identity theft" (Penal Code § 530.6) shall initiate a report for victims residing,or whose primary place of employment is, within the jurisdiction of this department. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:

1. For any victim not residing or working within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim may be offered the opportunity to promptly report the identity theft to the law enforcement agency where he or she resides.

(b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in our jurisdiction).

(c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application) and obtain as much information as possible regarding the incidents. Some examples are as follows:

1. Document the actual credit card number;
2. Have the victim obtain the credit card application (or the information that was documented on the application);
3. If the merchandise was shipped somewhere, obtain the shipping address;
4. Determine the actual store address where the credit was requested - not the main office;
5. Request digital photos and videotape (if any) from the appropriate businesses immediately. These initial requests can be made by phone in an attempt to preserve evidence;
6. Penal Code §530.8 states that if a person discovers an application for credit has been fraudulently made/obtained in the victim's name, the victim is entitled to that information upon presentation of a police report to that business. The person or entity with which the application was filed or the account was opened, shall provide copies of all paper records, records of telephone applications or

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authorizations or records of electronic applications or authorizations required by this section, without charge, within ten (10) business days of receipt of the person's request and submission of the required police report and identifying information.

(d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers. Officers should also assist victims by directing them to make notification of identity theft with the credit reporting bureaus, the DMV and other appropriate agencies as necessary.

(e) The reporting officer should inform the victim of identity theft that the California Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement or other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code §530.7). Information regarding the California Identity Theft Registry can be obtained by call toll free (888) 880-0240

(f) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

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# StarChase Vehicle Pursuit Management System

## 364.1 PURPOSE AND SCOPE

This procedure provides direction and operational guidelines for using the StarChase Vehicle Pursuit Management System. The StarChase system allows an Officer to remotely affix a GPS tracking device to a pursued or about to be pursued vehicle using an air pressure system to discharge the tracker from the front of the StarChase equipped patrol car. Once the tracker is affixed to the vehicle in question, its location can be tracked by an employee (StarChase Monitor) using a computer, tablet, or smartphone with an internet connection.

Use of the StarChase system can greatly enhance community safety for community members, Officers, and suspects by mitigating the risks of pursuits. While StarChase will not eliminate pursuits completely, it can reduce the number of pursuits, enhance safety during actual pursuits, while also increasing the ability for Officers to apprehend suspects, recover stolen vehicles, stolen property, and other evidence of crimes.

## 364.2 OPERATIONAL GUIDELINES

(a) The StarChase system should be used in conjunction with all rules and guidelines as outlined in the PAPD Policy Manual.

(b) For the purpose of clarity of communications, radio traffic should identify the device as "StarChase".

(c) Only StarChase trained Officers are authorized to deploy StarChase tags. Officers must complete a training session that includes classroom lecture in addition to driving tactics and deployments of training tags.

## 364.3 SITUATIONS TO DEPLOY STARCHASE

StarChase may be deployed by a trained and qualified Officer under the following circumstances:

[redacted]

6. Any other circumstance as deemed appropriate by an on-duty Supervisor.

StarChase may be deployed by a trained and qualified Officer while actively engaged in a vehicle pursuit that meets the PAPD Vehicle Pursuit (PAPD Policy 314) criteria [redacted]

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[redacted] if it is safe to deploy based upon speeds and conditions.

## 364.4 FACTORS TO CONSIDER WHEN DEPLOYING STARCHASE

(a) All safety decisions related to the discharge of a StarChase tag shall be evaluated by the Officer prior to deployment. While supervisors may direct or approve the deployment of a StarChase equipped patrol car in a vehicle pursuit and/or the discharge of a tag, safety decisions related to passing other involved vehicles and the actual discharge of the device will be evaluated by the Officer prior to deployment. In accordance with policy, the safety of Officers, uninvolved persons, and persons inside the pursued vehicle shall be considered. The following decisions are specifically included:

[redacted]

(b) Whether the Officer can safely pass any other vehicle involved in the pursuit.

(c) Whether any circumstance would indicate the device would not work [redacted]

(d) StarChase tags should only be deployed in accordance with training.

(a) An officer shall not engage in a vehicle pursuit solely for the purpose of deploying a StarChase tag if the pursuit does not comply with the PAPD Pursuit Policy as defined in PAPD Policy 314. Prior supervisory approval for a StarChase deployment does not override an officer's obligation to comply with Policy 314.

## 364.5 MUTUAL AID REQUESTS

The following guidelines apply to mutual aid requests from outside agencies for the use of StarChase. Any mutual aid request should be assessed and approved or declined by the on-duty Supervisor. The requesting agency will have the responsibility of obtaining a search warrant when one is required by law.

Mutual aid request within Palo Alto city limits:

(a) If an outside agency comes into Palo Alto city limits while following (not pursuing) a vehicle that meets our deployment criteria (as noted above in Situations to Deploy StarChase) and the on-duty Supervisor approves, a StarChase trained and equipped Officer can respond to the location of the other Officer(s) to attempt a StarChase deployment.

(b) If an outside agency comes into Palo Alto city limits while actively engaged in a vehicle pursuit and if the want for the suspect(s) meets our PAPD Vehicle Pursuit criteria [redacted] and the on-duty Supervisor approves, a StarChase trained and equipped Officer may respond Code 3 to catch up to the other Officer(s) only if it can be accomplished realistically and safely based upon proximity to the other Officer(s) along with speeds and conditions to attempt a StarChase deployment.

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Mutual aid request outside of Palo Alto city limits:

(a) If an outside agency requests StarChase outside of our city limits when following a vehicle (not pursuing) that meets PAPD deployment criteria as noted above in Lexipol section 363.3, and the on-duty Supervisor approves, a StarChase trained and equipped Officer may respond to assist based upon the proximity of the StarChase Officer and the likelihood of being able to safely catch up to the outside agency Officer and suspect vehicle.

(b) If an outside agency requests StarChase outside of our city limits and they are already in an active vehicle pursuit, the on-duty Supervisor can evaluate if we can assist, [redacted] and if the StarChase Officer has a realistic likelihood of being able to safely respond Code 3 to catch up to the outside agency Officer and suspect vehicle.

## 364.6 VEHICLE PURSUIT CONSIDERATIONS

(a) With Supervisor approval, a StarChase trained and qualified Officer driving a StarChase equipped patrol car, may respond Code 3 to join a vehicle pursuit (that meets PAPD Vehicle Pursuit guidelines) for purposes of making a deployment of the device, if they are within, or expected to be within, reasonable proximity of the pursuit.

(b) Once a StarChase equipped vehicle joins a vehicle pursuit, it becomes an authorized unit as it relates to the number of authorized pursuing vehicles until after successful deployment of the device at which time they should generally leave the Vehicle Pursuit so they can pull over and begin tracking the suspect vehicle.

[redacted]

## 364.7 FACTORS TO CONSIDER AFTER STARCHASE DEPLOYMENT

(a) [redacted] Officers may trail or coordinate a safe response to any likely destination(s) the fleeing vehicle may go while following the rules of the road.

[redacted]

(b) The StarChase Monitor should be a StarChase trained operator, a Supervisor, or a Watch Commander.

(c) [redacted]

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(d) The on-duty Supervisor will coordinate with the StarChase Monitor to direct resources and Officers to appropriate locations to apprehend the suspect and/or recover the vehicle. The on-duty Supervisor should dictate who the StarChase Monitor is based on available resources.

(e) No Officer driving a moving patrol car will access the StarChase Monitor data as this creates an unnecessary hazard.

(f) Consistent with the provisions of the California Electronics Communications Privacy Act (CalECPA, PC 1546.1) and the search warrant provisions of PC 1534 (tracker warrants), officers shall obtain a tracker search warrant whenever an officer is no longer actively searching for a vehicle with a deployed StarChase tag but wish to continue to track its GPS location. Officers shall only view GPS location data collected during an active search for a suspect vehicle unless a search warrant has been issued.

(g) The following circumstances will not require a search warrant for any deployment and GPS tracking of a StarChase tag:

1. The suspect operating the vehicle is known to be on CDC parole
2. The vehicle is confirmed to have been stolen.

## 364.8 TACTICAL CONSIDERATIONS

Officers should not deploy a StarChase tag in the following situations unless the suspect poses a substantial risk to the public:

[redacted]

(b) When pedestrians are between or very near the suspect vehicle and the StarChase equipped vehicle.

[redacted]

[redacted]

## 364.9 RECOVERY OF STARCHASE TAG AND REPLACEMENT

(a) The StarChase tag will be recovered, when feasible, and returned to a Watch Commander or their designee, and a new tag will be replaced to the StarChase patrol vehicle. The StarChase tag will be returned to the manufacturer if recovered.

## 364.10 DOCUMENTATION

Officers shall appropriately document all deployments (whether successful or not) of the StarChase system in an incident report and/or supplemental narrative reports (to include selecting the "STARCHASE" special circumstance drop-down option in RIMS). In the event no crime report would otherwise be required for the incident, the deployment shall be documented on a StarChase Deployment Review Form.

## 364.11 PROGRAM OVERSIGHT

The on-duty Supervisor shall complete the StarChase Deployment Review Form. The form, with all supporting documentation, shall be forwarded to Field Services Division Captain for review and

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final approval. The form will not be attached to any associated crime report, incident report, or documentation in RIMS.

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# Private Persons Arrests

## 365.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

## 365.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Penal Code § 836(b) expressly mandates that all officers shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, officers should use sound discretion in determining whether or not to advise an individual of the arrest process.

(a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.

(b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

## 365.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

(a) For a public offense committed or attempted in his or her presence;

(b) When the person arrested has committed a felony, although not in his or her presence;

(c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

## 365.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

(a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.

1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The officer must include the basis of such a determination in a related report.

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2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.

(b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:

1. Take the individual into physical custody for booking
2. Release the individual pursuant to a Notice to Appear
3. Release the individual pursuant to Penal Code § 849

## 365.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a department Private Person's Arrest form under penalty of perjury.

In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

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# Limited English Proficiency Services

## 369.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

### 369.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Palo Alto Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

## 369.2 POLICY

It is the policy of the Palo Alto Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

## 369.3 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

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(a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.

(b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.

(c) The nature and importance of the contact, program, information or service provided.

(d) The cost of providing LEP assistance and the resources available.

### 369.4 TYPES OF LEP ASSISTANCE AVAILABLE

Palo Alto Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

### 369.5 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered.

### 369.6 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

### 369.7 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

## 369.8 AUTHORIZED INTERPRETERS

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

### 369.8.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

### 369.8.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such

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individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

## 369.9 CONTACT AND REPORTING

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

## 369.10 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Palo Alto Police Department will take reasonable steps and will work with the Personnel and Training to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

### 369.10.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in the Communications Center, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

## 369.11 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of

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language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

### 369.12 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

### 369.13 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

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### 369.14 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

### 369.15 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate.

Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

### 369.16 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

### 369.17 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Personnel and Training Lieutenant shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Personnel and Training Lieutenant shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

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# ADA Compliance

## 370.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for equal access to Palo Alto Police Department services, programs, and activities for persons with disabilities, in accordance with Title II of the Americans with Disabilities Act (ADA).

This policy also includes guidelines to provide effective communication with persons with disabilities. See the Service Animals Policy for guidance on protecting the rights of individuals who use service animals in accordance with the ADA.

### 370.1.1 DEFINITIONS

Definitions related to this policy include (28 CFR 35.104):

**ADA coordinator** - The member designated by the Chief of Police to coordinate the [department/office]'s efforts to comply with the ADA (28 CFR 35.107).

**Assistive devices, auxiliary aids, and services** - Tools used by persons with disabilities to facilitate their participation in services, programs, and activities offered by the Palo Alto Police Department and to facilitate effective communication. They include but are not limited to the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; a qualified reader; or a qualified interpreter.

**Disability** - A physical or mental impairment that substantially limits a major life activity including hearing, seeing, or speaking, regardless of whether the person uses assistive devices, auxiliary aids, and services. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102; 28 CFR 35.108).

**Facility** - All aspects of [department/office] buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walkways, parking areas, and other real or personal property (28 CFR 35.108).

**Modification** - Any change, adjustment, alteration, adaptation, or accommodation that renders a [department/office] service, program, or activity suitable for use, enjoyment, or participation by a person with a disability. This may include alteration of existing buildings and facilities.

A modification includes any change or exception to a policy, practice, or procedure that allows a person with a disability to have equal access to services, programs, and activities. It also includes the provision or use of assistive devices, auxiliary aids, and services.

**Qualified interpreter** - A person who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters, and intermediary interpreters.

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### 370.2 POLICY

It is the policy of the Palo Alto Police Department that persons with disabilities, including victims, witnesses, suspects, and arrestees, have equal access to services, programs, and activities of the [Department/Office].

The [Department/Office] will not discriminate against or deny any individual access to services, programs, or activities based upon the presence or suspected presence of disabilities.

### 370.3 ADA COORDINATOR RESPONSIBILITIES

The responsibilities of the ADA coordinator include but are not limited to (28 CFR 35.130):

(a) Collaborating with the City ADA coordinator regarding the Palo Alto Police Department's efforts to provide equal access to services, programs, and activities.

1. Maintaining [department/office] compliance with accessibility standards for [department/office] web content and mobile applications as required by 28 CFR 35 Subpart H (28 CFR 35.200).

(b) Collaborating with the City ADA coordinator to facilitate a process of periodic self-evaluation. The process should include:

1. Inspection of current [department/office] facilities to identify access issues.
2. Review of current [department/office] services, activities, and programs for access issues.
3. Assessment and update, if necessary, of current compliance measures.
4. Identification of recurring areas of complaint for which new methods of modification should be considered.
5. Review of the [department/office]'s emergency programs, services, and activities as they apply to persons with disabilities.
6. Recommendation of a schedule to implement needed improvements.

(c) Acting as a liaison with local disability advocacy groups or other disability-focused groups regarding access to [department/office] services, programs, and activities.

(d) Developing procedures that will enable members to access assistive devices, auxiliary aids, and services, and making the procedures available as appropriate.

1. A list of qualified interpreter services with contact and availability information should be maintained and easily accessible to members.

(e) Developing procedures for the review and processing of requests for modifications that will help members provide persons with disabilities access to [department/office] services, programs, and activities, as appropriate.

(f) Establishing procedures for the booking process to assist members with managing commonly encountered disabilities such as sight or mobility impairments and intellectual or developmental disabilities.

(g) Providing notice to the public regarding the rights and protections afforded by the ADA. This may include posters, published notices, handbooks, manuals, and pamphlets

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describing [department/office] services, programs, and activities and the availability of assistive devices, auxiliary aids, and services, as well as modifications (28 CFR 35.106).

(h) Collaborating with other [city/county] departments during the planning process to provide that new construction and any alteration to an existing building or facility are undertaken in compliance with the ADA (28 CFR 35.151).

(i) Developing, implementing, and publishing appropriate procedures to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to services, programs, and activities. The complaint procedures should include an appeal process (28 CFR 35.107).

(j) Verifying that third parties providing [department/office] services, programs, or activities through contract, outsourcing, licensing, or other arrangement have established reasonable policies and procedures to prevent discrimination against and denial of access to persons with disabilities.

(k) Recommending amendments to this policy as needed.

## 370.4 REQUESTS

The goal of any modification should be to allow a person with a disability to participate in a service, program, or activity the same as a person who does not have a disability.

Upon receiving a request for a modification, members should make reasonable efforts to accommodate the request based on the preference of the person with the disability. Members should not ask about the nature and extent of a person's disability but should limit questions to elicit information necessary to determine the need for a modification and the appropriate type of modification.

If the requested modification or an alternative modification can reasonably be made at the time of the request, the member should make the modification. A member who is unable to accommodate a request or unsure about whether a request should be accommodated should contact a supervisor.

The supervisor should review and approve the request, if practicable and appropriate. Otherwise, the supervisor should document the requesting person's contact information and the modification being requested and forward the request to the ADA coordinator for processing as soon as reasonably practicable.

### 370.4.1 DENIAL OF A REQUEST

The following should be considered before denying a request for modification:

(a) Requests for modifications should be approved unless complying with the request would result in (28 CFR 35.150):

1. A substantial alteration of the service, program, or activity.
2. An undue financial or administrative burden on the [Department/Office]. All resources available for use in the funding and operation of the service, program, or activity at issue should be considered in this determination.

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3. A threat to or the destruction of the historic significance of a historic property.
4. A direct threat to the health or safety of others (28 CFR 35.139).

(b) If any of these circumstances are present, the ADA coordinator should work with [department/office] members and the person requesting the modification to determine if an alternative modification is available.

(c) Where new construction or physical modification of an existing building or facility would be unfeasible or unduly burdensome, the ADA coordinator should work with [department/office] members to determine whether alternative modifications are available. Alternative methods that should be considered include (28 CFR 35.150):

1. Reassigning services, programs, or activities to accessible buildings or facilities.
2. Utilizing technology, equipment, rolling stock, or other conveyances.
3. Delivering the services, programs, or activities directly to a person with a disability by way of home visits or meeting the person at an accessible location.
4. Any other means or methods that would make services, programs, or activities readily accessible.

(d) If no alternative modification is appropriate, the ADA coordinator shall issue a written statement explaining why a modification of the service, program, or activity will not be made (28 CFR 35.150).

#### 370.4.2 PERSONAL DEVICES AND ASSISTANCE

Although members should make every effort to comply with requests, the provision of personal devices or assistance (e.g., wheelchairs, eyeglasses, hearing aids, personal assistance in eating or using the restroom) to persons with disabilities is not required (28 CFR 35.135).

#### 370.4.3 SURCHARGES

Surcharges shall not be imposed upon persons with disabilities to cover the costs of providing modifications (28 CFR 35.130(f)).

### 370.5 COMMUNICATIONS WITH PERSONS WITH DISABILITIES

Members should remain alert to the possibility of communication problems when engaging with persons with disabilities. When a member knows or suspects an individual requires assistance to effectively communicate, the member should identify the individual's choice of assistive devices, auxiliary aids, and services. The individual's preferred communication method should be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method may be effective include:

(a) The methods of communication usually used by the individual.

(b) The nature, length, and complexity of the communication involved.

(c) The context of the communication.

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In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever modification reasonably appears effective under the circumstances. This may include exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter. Once the emergency has ended, the method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

### 370.5.1 TYPES OF ASSISTANCE AVAILABLE

[Department/Office] members shall not refuse an available type of assistive device, auxiliary aid, or service to a person with a disability who is requesting assistance. The [Department/Office] will not require persons with disabilities to furnish their own assistive device, auxiliary aid, or service as a condition for receiving access to [department/office] services, programs, and activities. The [Department/Office] will make every reasonable effort to provide equal access and timely assistance to persons with disabilities through a variety of assistive devices, auxiliary aids, and services (28 CFR 35.160).

The [Department/Office] will not require that persons with disabilities use [department/office]-provided assistive devices, auxiliary aids, and services. [Department/Office]-provided assistive devices, auxiliary aids, and services may include but are not limited to the means described in this policy.

### 370.5.2 AUDIO RECORDINGS AND ENLARGED PRINT

The [Department/Office] may develop audio recordings to assist people who are blind or have a visual impairment. If such a recording is not available, members may read aloud from the appropriate form or provide forms with enlarged print.

### 370.5.3 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect, or arrestee) with individuals who normally rely on sign language or speechreading (i.e., lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the matter. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a legal proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time.

(b) Experienced in providing interpretation services related to law enforcement matters in the person's primary language.

(c) Familiar with the use of text- and video-based communications products and systems.

(d) Certified in either American Sign Language (ASL) or Signing Exact English (SEE).

(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

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(f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use [department/office]-approved procedures to request a qualified interpreter at the earliest reasonable opportunity or when it is reasonably apparent that an interpreter is needed. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. Persons with disabilities shall not be required to provide an interpreter (28 CFR 35.160).

### 370.5.4 TELECOMMUNICATION SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., during booking or attorney contacts), members must also provide those with communication-related disabilities the opportunity to place calls using an available TTY, TDD, or other voice, text, or video-based communications product or system. Members shall provide additional time, as needed, for effective communication due to the slower nature of assisted communications.

The [Department/Office] will accept all TDD and computer modem calls placed by individuals with communications-related disabilities and received via a telecommunications relay service (28 CFR 35.162).

### 370.5.5 COMMUNITY VOLUNTEERS

Where qualified interpreters are unavailable to assist members, [department/office]-approved community volunteers who have demonstrated competence in communication services, such as ASL or SEE, may be called upon to provide interpreter services when appropriate. However, [department/office] members must carefully consider the nature of the interaction and the relationship between the individual with the disability and the volunteer to be reasonably satisfied that the volunteer can provide neutral and unbiased assistance.

### 370.5.6 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the interaction and relationship between the individual with the disability and the person offering services must be carefully considered to determine whether the family member or friend can provide neutral and unbiased assistance.

Except in an emergency involving an imminent threat to the safety or welfare of any person and no qualified interpreter is reasonably available, members shall not use a minor child as an interpreter (28 CFR 35.160).

### 370.5.7 FIELD ENFORCEMENT CONSIDERATIONS

Due to the unpredictable and varied nature of field enforcement, the [Department/Office] recognizes that it is impracticable to provide immediate access to a comprehensive supply of assistive devices, auxiliary aids, and services to every member of this [department/office]. Members involved in interactions with persons with disabilities that occur in the field should assess each situation to determine if communication assistance is necessary. The length, complexity, and importance of the communication, as well as the individual's preferred method of communication,

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should be considered when determining what, if any, resources should be used and whether a qualified interpreter or other service is needed.

370.5.8 WITNESS OR VICTIM INTERVIEWS
Members who interview a witness or victim who demonstrates or states they are deaf or have a hearing loss shall make a good faith effort to secure the services of an interpreter without any unnecessary delay, unless the individual affirmatively indicates they do not need or cannot use an interpreter (Evidence Code § 754).

## 370.6 CUSTODIAL INTERROGATIONS
In an effort to ensure that the rights of individuals with disabilities are protected during a custodial interrogation, this [department/office] will provide reasonable modifications before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that the individual understands the process and desires to proceed without receiving a modification. *Miranda* warnings should be provided to a suspect via the individual's preferred method of communication.

Interrogations should be recorded whenever reasonably practicable. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

## 370.7 ARREST
If an individual with a communication-related disability is arrested, the arresting officer shall use [department/office]-approved procedures to provide a qualified interpreter as soon as reasonably practicable, unless the individual indicates a preference for a different assistive device, auxiliary aid, or service, or the officer reasonably determines another effective method of communication exists under the circumstances.

Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

## 370.8 WEBSITE ACCESS
The ADA coordinator should work with the appropriate parties to develop online content that is readily accessible to persons with disabilities. [Department/Office] web content should be developed in conformance with the most current guidelines issued by the U.S. Department of Justice and federal regulations (28 CFR 35 Subpart H; 28 CFR 35.200).

[Department/Office] website content should also be made available to persons with disabilities in an alternative format upon request, if reasonably practicable.

## 370.9 DOCUMENTATION
Whenever any modification has been provided, the member involved should document:

(a) The type of modification, assistive device, auxiliary aid, or service provided.

(b) Whether the individual elected to use an assistive device, auxiliary aid, or service provided by the [Department/Office] or another identified source, as applicable.

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(c) Whether the individual's express preference for the modification was not honored and the reason why an alternative method was used.

The documentation and any written communications exchanged should be maintained consistent with the Records Maintenance and Release Policy.

All written communications exchanged in a criminal case shall be attached to the member's report or placed into evidence.

## 370.10 COMPLAINTS

A member who receives a complaint or becomes aware of potential disability discrimination, an ADA violation, or a person's inability to access the [department/office]'s programs, services, or activities should document the complaint and promptly refer the matter to the ADA coordinator (28 CFR 35.107). The [Department/Office] shall assist persons with disabilities who require assistance to file a complaint regarding members of this [department/office]. The [Department/Office] may provide a qualified interpreter or forms in enlarged print, as appropriate.

## 370.11 TRAINING

Members should receive periodic training on ADA compliance, to include:

(a) Awareness and understanding of this policy, related procedures, forms, and available resources.

(b) Procedures for handling requests for modifications.

(c) Accessing assistive devices, auxiliary aids, and services needed to accommodate requests for modifications.

(d) General requirements of the ADA, including modifying policies and practices, communicating with individuals with disabilities, and identifying alternate ways to provide access to programs, services, and activities as appropriate to the member's job duties.

Management staff, even if they do not interact regularly with individuals with disabilities, should receive training as appropriate to understand and reinforce this policy.

The Personnel and Training Lieutenant should maintain records of all training provided and retain a copy in each member's training file in accordance with the established records retention schedule.

### 370.11.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of [department/office] assistive devices, auxiliary aids, and services for communicating with individuals with communication-related disabilities. Such training and information should include:

(a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.

(b) ASL syntax and accepted abbreviations.

(c) Practical instruction on identifying and processing calls using TTY, TDD, or other voice, text, and video-based communications products and systems.

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(d) Hands-on experience in using TTY, TDD, or other voice, text, and video-based communications products and systems.

Training should be provided for all the Communications Center members who may have contact with individuals from the public who have communication-related disabilities. Refresher training should be provided as appropriate.

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# Communications with Persons with Disabilities

## 372.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

### 372.1.1 DEFINITIONS

Definitions related to this policy include:

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

**Disability or impairment** - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

**Qualified interpreter** - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

## 372.2 POLICY

It is the policy of the Palo Alto Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

## 372.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by, and directly responsible, to the Field Services Division Captain or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

(a) Working with the City ADA coordinator regarding the Palo Alto Police Department's efforts to ensure equal access to services, programs and activities.

(b) Developing reports, new procedures, or recommending modifications to this policy.

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(c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

(d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Communications Manager. The list should include information regarding the following:

1. Contact information
2. Availability

(e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.

(f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.

(g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

## 372.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

(a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.

(b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).

(c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).

(d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

## 372.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

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Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

(a) The methods of communication usually used by the individual.

(b) The nature, length and complexity of the communication involved.

(c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Palo Alto Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

## 372.6 TYPES OF ASSISTANCE AVAILABLE

Palo Alto Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

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### 372.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

### 372.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time but in no event longer than one hour if requested.

(b) Experienced in providing interpretation services related to law enforcement matters.

(c) Familiar with the use of VRS and/or video remote interpreting services.

(d) Certified in either American Sign Language (ASL) or Signed English (SE).

(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

### 372.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

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### 372.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

### 372.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

(a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.

(b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

### 372.12 REPORTING

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

### 372.13 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

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The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

### 372.13.1 FIELD RESOURCES

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

(a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.

(b) Exchange of written notes or communications.

(c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.

(d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.

(e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

## 372.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

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In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

### 372.15 ARREST AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

### 372.16 COMPLAINTS

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

### 372.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

### 372.18 TRAINING

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

(a) Awareness and understanding of this policy and related procedures, related forms and available resources.

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(b) Procedures for accessing qualified interpreters and other available resources.

(c) Working with in-person and telephone interpreters and related equipment.

The Personnel and Training Lieutenant shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Personnel and Training Lieutenant shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

### 372.18.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

(a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.

(b) ASL syntax and accepted abbreviations.

(c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.

(d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all the Communications Center members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

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# Mandatory Employer Notification

## 374.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the requirements and procedures to follow when a public or private school employee (teacher and non-teacher) has been arrested under certain circumstances.

## 374.2 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

In the event a school employee is arrested for any offense enumerated below, the Chief of Police or his/her designee is required to report the arrest as follows.

### 374.2.1 ARREST OF PUBLIC SCHOOL TEACHER

In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a) or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

### 374.2.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a) or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

### 374.2.3 ARREST OF PRIVATE SCHOOL TEACHER

In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

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374.2.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor's Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

## 374.3 POLICY

The Palo Alto Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

## 374.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

## 374.5 POLICY ISSUE DATE

Updated: 1-18-17

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# Biological Samples

## 376.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples from those required to register, for example, sex offenders.

## 376.2 POLICY

The Palo Alto Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

## 376.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296):

(a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.

(b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.

(c) An adult arrested or charged with any felony.

## 376.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

### 376.4.1 COLLECTION

The following steps should be taken to collect a sample:

(a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.

(b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.

(c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

## 376.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only

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with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

(a) The person's parole or probation officer when applicable.

(b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.

(c) The judge at the person's next court appearance.

(d) The person's attorney.

(e) A chaplain.

(f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.

(g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

### 376.5.1 VIDEO RECORDING

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule (15 CCR 1059).

## 376.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

### 376.6.1 DOCUMENTATION RELATED TO FORCE

The Watch Commander or the on-duty authorized designee shall prepare prior written authorization for the use of any force (15 CCR 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample, or impression and refused, as well as the related court order authorizing the force.

### 376.6.2 BLOOD SAMPLES

A blood sample should only be obtained under this policy when:

(a) The California DOJ requests a blood sample and the subject consents, or

(b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

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### 376.6.3 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this [department/office] is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

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# Chaplains

## 378.1 PURPOSE AND SCOPE

This policy establishes the guidelines for Palo Alto Police Department chaplains to provide counseling or emotional support to members of the Department, their families and members of the public.

## 378.2 POLICY

It is the policy of this department that the Chaplain Program shall be a non-denominational, ecumenical ministry provided by clergy.

## 378.3 GOALS

Members of the Chaplain Program shall fulfill the program's purpose in the following manner:

(a) By serving as a resource for department personnel when dealing with the public in such incidents as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse, and other such situations that may arise.

(b) By providing an additional link between the community, other chaplain programs and the Department.

(c) By providing counseling, spiritual guidance and insight for department personnel and their families.

(d) By being alert to the spiritual and emotional needs of department personnel and their families.

(e) By familiarizing themselves with the role of law enforcement in the community.

## 378.4 REQUIREMENTS

Candidates for the Chaplain Program shall meet the following requirements:

(a) Must be above reproach, temperate, prudent, respectable, hospitable, able to teach, not be addicted to alcohol or other drugs, not contentious, and free from excessive debt. Must manage their household, family, and personal affairs well. Must have a good reputation with those outside the church.

(b) Must be ecclesiastically certified and/or endorsed, ordained, licensed, or commissioned by a recognized religious body.

(c) Must successfully complete an appropriate level background investigation.

(d) Must have at least five years of successful ministry experience within a recognized church or religious denomination.

(e) Membership in good standing with the International Conference of Police Chaplains (ICPC).

(f) Possess a valid California Drivers License.

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### 378.5 SELECTION PROCESS

Chaplain candidates are encouraged to participate in the ride-along program before and during the selection process. Chaplain candidates shall successfully complete the following process prior to deployment as a chaplain:

(a) Appropriate written application.

(b) Recommendation from their church elders, board, or council.

(c) Interview with Chief of Police & Chaplain Supervisor

(d) Successfully complete an appropriate level background investigation.

(e) Complete an appropriate probationary period as designated by the Chief of Police.

### 378.6 DUTIES AND RESPONSIBILITIES

The duties of a chaplain include, but are not limited to, the following:

(a) Assisting in making notification to families of department members who have been seriously injured or killed.

(b) After notification, responding to the hospital or home of the department member.

(c) Visiting sick or injured law enforcement personnel in the hospital or at home.

(d) Attending and participating, when requested, in funerals of active or retired members of the Department.

(e) Assisting sworn personnel in the diffusion of a conflict or incident, when requested.

(f) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Commander or supervisor aids in accomplishing the Department's mission.

(g) Being on-call and if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department personnel.

(h) Counseling officers and other personnel with personal problems, when requested.

(i) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.

(j) Being responsible for the organization and development of spiritual organizations in the Department.

(k) Responding to all major disasters such as earthquakes, bombings and similar critical incidents.

(l) Providing liaison with various religious leaders of the community.

(m) Assisting public safety personnel and the community in any other function of the clergy profession, as requested.

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(n) Participating in in-service training classes.

(o) Willing to train to enhance effectiveness.

(p) Promptly facilitating requests for representatives or ministers of various denominations.

(q) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

Chaplains may not proselytize or attempt to recruit members of the department or the public into a religious affiliation while on-duty unless the receiving person has solicited spiritual guidance or teaching. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service or follow-up contacts that was provided while functioning as a chaplain for the Palo Alto Police Department.

## 378.7 CLERGY-PENITENT CONFIDENTIALITY

No person who provides chaplain services to members of the department may work or volunteer for the Palo Alto Police Department in any capacity other than that of chaplain.

Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent privilege and shall inform department members when it appears reasonably likely that the member is discussing matters that are not subject to the clergy-penitent privilege. In such cases, the chaplain should consider referring the member to a non-department counseling resource.

No chaplain shall provide counsel to or receive confidential communications from any Palo Alto Police Department employees concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

### 378.7.1 ASSISTING DEPARTMENT MEMBERS

The responsibilities of a chaplain related to department members include, but are not limited to:

(a) Assisting in making notification to families of members who have been seriously injured or killed and, after notification, responding to the hospital or home of the member.

(b) Visiting sick or injured members in the hospital or at home.

(c) Attending and participating, when requested, in funerals of active or retired members.

(d) Serving as a resource for members when dealing with the public in incidents, such as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse and other such situations that may arise.

(e) Providing counseling and support for members and their families.

(f) Being alert to the needs of members and their families.

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### 378.7.2 ASSISTING THE DEPARTMENT

The responsibilities of a chaplain related to this department include, but are not limited to:

(a) Assisting members in the diffusion of a conflict or incident, when requested.

(b) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Commander or supervisor aids in accomplishing the mission of the Department.

(c) Responding to all major disasters, such as natural disasters, bombings and similar critical incidents.

(d) Being on-call and, if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department members.

(e) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.

(f) Participating in in-service training classes.

(g) Willingness to train others to enhance the effectiveness of the Department.

### 378.7.3 ASSISTING THE COMMUNITY

The duties of a chaplain related to the community include, but are not limited to:

(a) Fostering familiarity with the role of law enforcement in the community.

(b) Providing an additional link between the community, other chaplain coordinators and the Department.

(c) Providing liaison with various civic, business and religious organizations.

(d) Promptly facilitating requests for representatives or leaders of various denominations.

(e) Assisting the community in any other function as needed or requested.

(f) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

## 378.8 COMMAND STRUCTURE

(a) Under the general direction of the Chief of Police or his/her designee, chaplains shall report to the Senior Chaplain and/or Watch Commander.

(b) The Chief of Police shall make all appointments to the Chaplain Program and will designate a Senior Chaplain/Chaplain Commander.

(c) The Senior Chaplain shall serve as the liaison between the Chaplain Unit and the Chief of Police. He/she will arrange for regular monthly meetings, act as chairman of all chaplain meetings, prepare monthly schedules, maintain records on all activities of the Chaplain Unit, coordinate activities that may concern the members of the Chaplain Unit and arrange for training classes for chaplains.

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## 378.9 OPERATIONAL GUIDELINES

(a) The Chaplain shall be permitted to ride with officers during any shift and observe Palo Alto Police Department operations, provided the Watch Commander has been notified and approved of the activity.

(b) The Chaplain shall not be evaluators of employees and shall not be required to report on an employee's performance or conduct.

(c) In responding to incidents, the Chaplain shall never function as an officer.

(d) When responding to in-progress calls for service, the Chaplains may be required to stand-by in a secure area until the situation has been deemed safe.

(e) The Chaplain shall serve only within the jurisdiction of the Palo Alto Police Department unless otherwise authorized by the Chief of Police or his designee.

(f) The Chaplain shall have access to current personnel rosters, addresses, telephone numbers, duty assignments and other information that may assist in their duties. Such Information will be considered confidential and each chaplain will exercise appropriate security measures to prevent distribution of the information.

### 378.9.1 UNIFORMS AND BADGES

A distinct uniform, badge and necessary safety equipment will be provided for the Chaplains. This uniform may be similar to that worn by the personnel of this department.

## 378.10 TRAINING

The Department will establish a minimum number of training hours and standards for department chaplains. The training may include stress management, death notifications, post-traumatic stress syndrome, burnout for officers and chaplains, legal liability and confidentiality, ethics, responding to crisis situations, the law enforcement family, substance abuse, suicide, officer injury or death, and sensitivity and diversity, as approved by the Personnel and Training Lieutenant.

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# Public Safety Video Surveillance System

## 380.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of [department/office] public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to overt, marked public safety video surveillance systems operated by the [Department/Office]. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the [Department/Office].

## 380.2 POLICY

The Palo Alto Police Department operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

## 380.3 OPERATIONAL GUIDELINES

Only [department/office]-approved video surveillance equipment shall be utilized. Members authorized to monitor video surveillance equipment should only monitor public areas and public activities where no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed locations for the use of video surveillance technology and should consult with and be guided by legal counsel as necessary in making such determinations.

### 380.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation, or other obstructions, should also be evaluated when determining placement.

The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public video surveillance system may be useful for the following purposes:

(a) To prevent, deter, and identify criminal activity.

(b) To target identified areas of gang and narcotics complaints or activity.

(c) To respond to critical incidents.

(d) To assist in identifying, apprehending, and prosecuting offenders.

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(e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.

(f) To augment resources in a cost-effective manner.

(g) To monitor pedestrian and vehicle traffic activity.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images should be transmitted to monitors installed in the Watch Commander's office and the Communications Center. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. The Watch Commander or trained personnel in the Communications Center are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination, or retention is prohibited.

### 380.3.2 CAMERA MARKINGS

All public areas monitored by public safety surveillance equipment shall be marked in a conspicuous manner with appropriate signs to inform the public that the area is under police surveillance. Signs should be well lit, placed appropriately and without obstruction to ensure visibility.

### 380.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The [Department/Office] may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems may be considered based upon availability and the nature of [department/ office] strategy.

The [Department/Office] should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems and video enhancement or other analytical technology, requires additional safeguards.

## 380.4 VIDEO SUPERVISION

Supervisors should monitor video surveillance access and usage to ensure members are within [department/office] policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

### 380.4.1 PROHIBITED ACTIVITY

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

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Public safety video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target individuals or groups based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

Video surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.

## 380.5 STORAGE AND RETENTION OF MEDIA

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule and for a minimum of one year. Prior to destruction, written consent shall be obtained from the City Attorney. If recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved (Government Code § 34090.6).

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

### 380.5.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

## 380.6 RELEASE OF VIDEO IMAGES

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Palo Alto Police Department.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for [department/office] public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Watch Commander for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established [department/office] subpoena process.

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## 380.7 TRAINING

All [department/office] members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

## 380.8 POLICY ISSUE DATE

Updated 1-25-19

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# Child and Dependent Adult Safety

## 381.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this [department/office] (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Senior and Disability Victimization policies.

## 381.2 POLICY

It is the policy of this [department/office] to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Palo Alto Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

## 381.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

(a) Inquire about and confirm the location of any children or dependent adults.

(b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.

(c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should

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explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

### 381.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

(a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.

    1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.

(b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.

    1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.

(c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.

(d) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.

(e) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

### 381.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any

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child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

#### 381.3.3 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

## 381.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car, or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

## 381.5 TRAINING

The Personnel and Training Lieutenant is responsible to ensure that all personnel of this [department/office] who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

## 381.6 POLICY ISSUE DATE

Updated 12-8-16

Updated 4/20/2022

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# Service Animals

## 382.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure that the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act (ADA).

### 382.1.1 DEFINITIONS

Definitions related to this policy include:

**Service animal** - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Civil Code § 54.1; Health and Safety Code § 113903).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size, and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

## 382.2 POLICY

It is the policy of the Palo Alto Police Department to provide equal access to services, programs, and activities of the [Department/Office] to persons with service animals. [Department/Office] members shall protect the rights of persons assisted by service animals in accordance with state and federal law. This protection extends to a person authorized to train a service dog (Civil Code § 54.2).

## 382.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. [Department/Office] members are expected to treat individuals with service animals with the same courtesy and respect that the Palo Alto Police Department affords to all members of the public (28 CFR 35.136).

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness, or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors, or flipping switches for people who have limited use of their hands, arms, or legs.
- Pulling wheelchairs.

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- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities, or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

## 382.4 INQUIRIES REGARDING SERVICE ANIMALS

If it is apparent or if a member is aware that an animal is a service animal, the individual generally should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions (28 CFR 35.136(f)):

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The individual should not be questioned about their disabilities nor should members ask any individual to provide any license, certification, or identification card for the service animal.

## 382.5 CONTACT WITH SERVICE ANIMALS

Service animals are not pets. [Department/Office] members should not interfere with a service animal by talking to, petting, or otherwise initiating contact.

## 382.6 REMOVAL OF SERVICE ANIMALS

If a service animal is not housebroken, exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, a [department/office] supervisor may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136 (b); 28 CFR 35.139).

Each incident must be considered individually, and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse access to services, programs, and activities to an individual with a disability. Members are expected to provide all services, programs, and activities that are reasonably available to an individual with a disability, with or without a service animal.

## 382.7 COMPLAINTS

When handling calls of a complaint regarding a service animal, members should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the

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concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

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# Off-Duty Law Enforcement Actions

## 387.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Palo Alto Police Department with respect to taking law enforcement action while off-duty.

## 387.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Officers are not expected to place themselves in unreasonable peril. However, any sworn member of this department who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

In all cases where enforcement action is taken outside the jurisdiction of Palo Alto, officers are required to adhere to the current policies, procedures, rules and guidelines of the Policy Manual.

## 387.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in the department Firearms Policy. When carrying firearms while off-duty officers shall also carry their department-issued badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the officer’s senses or judgment.

## 387.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

(a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.

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(b) The inability to communicate with responding units.

(c) The lack of equipment, such as handcuffs, OC or baton.

(d) The lack of cover.

(e) The potential for increased risk to bystanders if the off-duty officer were to intervene.

(f) Unfamiliarity with the surroundings.

(g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

#### 387.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an Palo Alto Police Department officer until acknowledged. Official identification should also be displayed.

#### 387.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

#### 387.4.3 CIVILIAN RESPONSIBILITIES

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

#### 387.4.4 OTHER CONSIDERATIONS

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

### 387.5 REPORTING

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Watch Commander as soon as practicable. The Watch Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

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# Native American Graves Protection and Repatriation

## 393.1 PURPOSE AND SCOPE

This policy is intended to ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

### 393.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

**Funerary objects** - Objects that, as part of the death rite or ceremony of a Native American culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects are either associated funerary objects or unassociated funerary objects.

Associated funerary objects are any funerary objects related to removed human remains, where the location of the human remains is known. This includes objects that were made exclusively for burial purposes or to contain human remains, regardless of the physical location or existence of any related human remains.

Unassociated funerary objects are any other funerary objects that are identified by a preponderance of the evidence such as:

- Related to human remains but the remains were not removed, or the location of the remains is unknown.
- Related to specific individuals or families.
- Removed from specific burial sites with Native American cultural affiliation.
- Removed from an area where such burial sites are known to have existed, but the site no longer exists.

**Native American human remains** - Any physical part of the body of a Native American individual.

**Objects of cultural patrimony** - Objects having ongoing historical, traditional, or cultural importance that is central to the Native American group or culture itself and, therefore, cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

**Sacred objects** - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

## 393.2 POLICY

It is the policy of the Palo Alto Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred

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objects, or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption, or complicated custody transfer processes.

## 393.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.5).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.5):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - [Medical Examiner/JOP], when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

## 393.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.7).

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# Generative Artificial Intelligence Use

## 395.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for [department/office] use of generative artificial intelligence (GenAI). This policy does not apply to artificial intelligence that is integrated into facial recognition applications, voice recognition applications, biometric access controls, or software that redacts documents or video or similar applications.

Additional guidelines for the use of [department/office] information technology resources are found in the Information Technology Use Policy.

### 395.1.1 DEFINITIONS

Definitions related to this policy include:

**Generative artificial intelligence (GenAI)** - A type of artificial intelligence that is algorithmically trained on one or more large data sets and designed to generate new and unique data (e.g., text, pictures, video) in response to a prompt (generally questions, instructions, images, or video) input by the user.

## 395.2 POLICY

The use of GenAI systems carries unique benefits within a law enforcement agency, providing ways to increase operational efficiency, enhance [department/office] procedures, and improve the overall effectiveness of the Palo Alto Police Department.

However, the prompts input into GenAI systems can present risks to both individuals and law enforcement agencies by making accessible to the public information such as [department/office] tactics, investigative and training techniques, confidential information (e.g., confidential informants, protected information), active investigations, and security procedures. In addition, without safeguards in place, GenAI can produce unintended discriminatory or biased output as well as content that is inaccurate, misleading, or copyrighted.

It is the policy of the [Department/Office] to develop, implement, and use GenAI ethically and responsibly in a way that minimizes potential risk and harm in accordance with the guidelines set forth below.

Any function carried out by a member of the [Department/Office] using GenAI is subject to the same laws, rules, and policies as if carried out without the use of GenAI. The use of GenAI does not permit any law, rule, or policy to be bypassed or ignored.

## 395.3 RESPONSIBILITIES

### 395.3.1 CHIEF OF POLICE

The Chief of Police or an authorized designee shall approve all GenAI systems, their acceptable uses, and their authorized user groups prior to the use, implementation, or development for any [department/office] functions.

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## 395.4 USE OF GENERATIVE AI

The use of [department/office] GenAI systems by [department/office] members shall be limited to official work-related purposes, and members shall only access and use GenAI systems for which they have been authorized and received proper training.

Members shall use AI-generated content as an informational tool and not as a substitution for human judgment or decision-making. Members should not represent AI-generated content as their own original work.

AI-generated content should be considered draft material only and shall be thoroughly reviewed prior to use. Before relying on AI-generated content, members should:

(a) Obtain independent sources for information provided by GenAI and take reasonable steps to verify that the facts and sources provided by GenAI are correct and reliable.

(b) Review prompts and output for indications of bias and discrimination and take steps to mitigate its inclusion when reasonably practicable (see the Bias-Based Policing Policy).

(c) Include a statement in the final document or work product that GenAI was used to aid in its production.

### 395.4.1 PRIVACY CONSIDERATIONS

Information not otherwise available to the public, including data reasonably likely to compromise an investigation, reveal confidential law enforcement techniques, training, or procedures, or risk the safety of any individual if it were to become publicly accessible, should not be input into a GenAI system unless contractual safeguards are in place to prevent such information from becoming publicly accessible. Members should instead use generic unidentifiable inputs, such as "suspect" or "victim," and hypothetical scenarios whenever possible.

Protected information should only be input into GenAI systems that have been approved for such use and comply with applicable privacy laws and standards (see the Protected Information Policy).

## 395.5 PROHIBITED USE

Members shall not use GenAI systems to rationalize a law enforcement decision, or as the sole basis of research, interpretation, or analysis of the law or facts related to a law enforcement contact or investigation.

Members shall not create user accounts in their official capacity or input work-related data (including information learned solely in the scope of their employment) into publicly available GenAI systems unless the system has been approved by the Chief of Police or the authorized designee for the intended use.

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# Chapter 4 - Patrol Operations

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# Patrol Function

## 400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

## 400.2 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the [Department/Office] should be shared among all divisions and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily [briefing]s and to attend [briefing]s of other divisions or specialized units.

Additionally, information should be shared with outside agencies and the public in conformance with [department/office] policies and applicable laws. Members are encouraged to share information with other units and divisions.

## 400.3 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action.

Generally, officers should consider seeking compliance through advisements and warnings for minor violations and should reserve greater enforcement options for more serious violations or when voluntary compliance with the law is not achieved.

Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

## 400.4 POLICY

The Palo Alto Police Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and [department/office] members.

## 400.5 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Palo Alto. The function of patrol is to respond to calls

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for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

(a) Responding to emergency calls for service.

(b) Apprehending criminal offenders.

(c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.

(d) Preventing criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.

(e) Responding to reports of criminal and non-criminal acts.

(f) Responding to routine calls for service, such as public assistance or public safety.

(g) Carrying out crime prevention activities such as residential inspections, business inspections and community presentations.

(h) Carrying out community oriented policing and problem-solving activities including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.

(i) Directing and controlling traffic.

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# Bias-Based Policing

## 402.1 PURPOSE AND SCOPE

This policy provides guidance to [department/office] members that affirms the Palo Alto Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the [department/office]'s relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

### 402.1.1 DEFINITIONS

Definitions related to this policy include:

**Bias-based policing or improper profiling** - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4). This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

## 402.2 POLICY

The Palo Alto Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this [department/office] to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

## 402.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

### 402.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

(a) In compiling personal information about a person’s religious belief, practice, affiliation, national origin or ethnicity.

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(b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

## 402.4 MEMBER RESPONSIBILITIES

Every member of this [department/office] shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

### 402.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

### 402.4.2 DISCLOSURE AND DOCUMENTATION OF TRAFFIC OR PEDESTRIAN STOP

An officer conducting a traffic or pedestrian stop shall state the reason for the stop prior to questioning the individual related to a criminal investigation or traffic violation unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including but not limited to cases of terrorism or kidnapping (Vehicle Code § 2806.5).

Officers shall document the reason for the stop on any citation or report (Vehicle Code § 2806.5).

## 402.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.

    1. Supervisors should document these discussions, in the prescribed manner.

(b) Supervisors should refer to Policy 446, Field-Based Video Policy, for the conditions of reviewing associated body-worn camera and MAV video for biased-based complaint allegations.

(c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this [department/office] who discloses information concerning bias-based policing.

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## 402.6 TRAINING

Training on fair and objective policing and review of this policy shall be conducted annually and include:

(a) Explicit and implicit biases.

(b) Avoiding improper profiling.

### 402.6.1 ADDITIONAL STATE REQUIREMENTS

Training should be conducted as directed by the Personnel and Training Unit.

(a) All sworn members of this [department/office] will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.

(b) Pending participation in such POST-approved training and at all times, all members of this [department/office] are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.

(c) Each sworn member of this [department/office] who received initial bias-based policing training will thereafter be required to complete an approved POST refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity, and cultural trends (Penal Code § 13519.4(i)).

## 402.7 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Internal Affairs Unit Manager shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the Records Manager for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Technical Services Division Policy.

Supervisors should ensure that data stop reports are provided to the Records Manager for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

## 402.8 RACIAL IDENTITY PROFILING ACT (RIPA)

Beginning October 1, 2021, sworn department members shall collect and report data for all individuals detained or searched during a call for service or self-initiated activity, in accordance with the Racial and Identity Profiling Act (Government Code § 12525.5). When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the report. If multiple agencies are involved in a stop and the Palo Alto Police Department is the primary agency, the Palo Alto Police Officer shall collect the data elements and prepare the stop data report.

This data shall be collected through the department's selected application that can be found on department-issued electronic equipment and should be submitted upon completion of the activity and unless prior approved, before the end of shift.

Supervisors are responsible for ensuring that shift officers complete their stop data records. Supervisors shall review and ensure that personal identifying information is not included in the

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RIPA information before approval. Approval of RIPA data shall be completed in most cases before the end of the shift.

### 402.8.1 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Custodian of Records or his/her designee shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the DOJ as required for reporting (Penal Code § 13012; Penal Code §13020).

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# Briefing Training

## 404.1 PURPOSE AND SCOPE

Briefing training is generally conducted at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Briefing; however officers may conduct Briefing for training purposes with supervisor approval.

Briefing should accomplish, at a minimum, the following basic tasks:

(a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations

(b) Notifying officers of changes in schedules and assignments

(c) Notifying officers of new Interim Directives or changes in Interim Directives

(d) Reviewing recent incidents for training purposes

(e) Providing training on a variety of subjects

## 404.2 PREPARATION OF MATERIALS

The supervisor conducting Briefing is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his or her absence or for training purposes.

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# Crime And Disaster Scene Integrity

## 406.1 PURPOSE AND SCOPE

The protection and integrity of a crime scene is of the utmost importance for the successful apprehension of criminals and successful prosecution. The integrity of a disaster scene is equally as critical for the protection of life and property and investigation by proper authorities.

## 406.2 CRIME SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for taking reasonable efforts to preserve the scene. Officers shall also consider officer safety and public safety, including reasonable efforts to render medical aid to any obviously injured parties. Once an officer has assumed or been assigned to maintain the integrity of the crime/disaster scene, the officer shall continue to do so until he/she is relieved by a supervisor.

### 406.2.1 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the functions which the first responder should reasonably attempt to take at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation, the availability of resources, capacity of personnel and totality of each circumstance:

(a) Ensure no suspects are still in the area.

(b) Broadcast emergency information, including all requests for additional assistance.

(c) Provide first aid to injured parties if it can be done safely.

(d) Evacuate the location as required.

(e) Secure the inner and outer perimeter if needed.

(f) Protect items of apparent evidentiary value.

(g) Identify potential witnesses.

(h) Start a chronological log noting critical times and personnel allowed access.

### 406.2.2 EXECUTION OF HEALTH ORDERS

Any sworn member of this department is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

## 406.3 SEARCHES AT CRIME OR DISASTER SCENES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims and determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until proper authority for the search is obtained.

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406.3.1 CONSENT

Officers should seek consent to search from authorized individuals where possible. However, in the case of serious crimes or major investigations, it may be prudent to obtain a search warrant. Consent may be sought even in cases where a search warrant has been granted.

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# Community Service Officers Assigned to Patrol

## 407.1 PURPOSE

The Police Department is committed to enhancing the quality of life in Palo Alto by providing excellent service to the community. Community Service Officers assigned to patrol provide enhanced service to the community by responding to non-emergency calls for service, freeing police officers to focus on proactive policing and emergency responses. Community Service Officers assigned to patrol serve as ambassadors for the Police Department by increasing the department's ability to respond to community needs.

## 407.2 DUTIES

(a) Assist officers with field duties, community presentations, and neighborhood outreach events.

(b) Investigate crime reports which are low risk in nature and are not in progress.

(c) Investigate non-injury traffic collisions and write collision reports.

(d) Identify, preserve, collect, photograph and analyze evidence associated with low risk criminal incidents.

(e) Report problems or calls for assistance as appropriate.

(f) Enforce municipal and vehicle code violations as appropriate.

(g) Conduct traffic control when necessary.

(h) Assist with crowd control & traffic management during non-violent incidents.

(i) Serve witness subpoenas to cooperative parties.

(j) Testify in court as necessary.

(k) Transport victims, witnesses, juveniles and injured people as needed.

(l) Transport Police Department vehicles as necessary.

(m) Facilitate equipment maintenance as directed.

(n) Assist with parking control & enforcement.

(o) Assist with marking and tagging abandoned vehicles.

(p) Participate in mandated and authorized training as required.

(q) Perform citation sign-offs.

(r) Assist with the "Adopt-a-School" program through high visibility directed patrol.

(s) Perform other duties as assigned.

## 407.3 RESPONSIBILITIES

(a) Burglary Auto (and attempts)

(b) Burglary Residential (storage locker)

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(c) Burglary Residential (bike from garage)

(d) Casualty / Fall (Injury on City Property)

(e) Casualty / Miscellaneous

(f) Lost/Found Property

(g) Public Incident / Miscellaneous (trees falling on property/cars)

(h) Sick & Cared for / Miscellaneous

(i) Vandalism / Misdemeanor

(j) Theft Grand / Auto Accessories

(k) Theft Grand / From Auto

(l) Theft Petty / Auto Accessories

(m) Theft Petty / From Auto

## 407.4 ENFORCEMENT

Community Service Officers assigned to patrol are civilian employees and are not sworn police officers:

(a) Community Service Officers shall not engage in traffic stops, emergency driving, make physical arrests or transport prisoners.

(b) Community Service Officers shall notify dispatch of any criminal activity they come upon and request the aid of a police officer.

## 407.5 VEHICLES

(a) Vehicles assigned to and utilized by the Community Service Officers assigned to patrol will be constructed, configured, maintained, equipped, and used in accordance with the department's policies and procedures.

(b) CSO vehicles are not designated as "Authorized Emergency Vehicles" and shall not be equipped with a siren or lighted red lamps (21055 CVC).

(c) CSO vehicles shall not be equipped or used for the transportation of prisoners.

(d) Each CSO assigned to patrol is responsible for inspecting the condition of their assigned vehicle prior to beginning their shift. Vehicle damage will be reported and documented in the vehicle log binder.

(e) CSO vehicles may be utilized as necessary to block off streets, provide transportation during emergencies, transporting stranded motorists, witnesses, or victims as directed by a Patrol Division supervisor.

(f) CSO vehicles shall be clearly marked with "Palo Alto Police Community Service Officer" decals and other markings designated to increase the safety of the CSO and citizens.

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## 407.6 SUPERVISION

Community Service Officers serving in the Patrol and Parking capacity will report to the Special Operations Supervisor, who will have overall control of the structural operation of the division. The Special Operations Supervisor will be responsible for performance issues, administrative reports, establishing employee expectations, and completing employee evaluations.

Community Service Officers assigned to patrol will receive day-to-day direction from the on-duty Watch Commander and/or Field Supervisor. Community Service Officers are expected to work cooperation with all department members and abide by the department's chain of command. Community Service Officers should follow the directions of sworn personnel in the field when those directions are given to maintain order or protect life or property.

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# Crisis Response Unit

## 408.1 PURPOSE AND SCOPE

The Crisis Response Unit (CRU) is comprised of two specialized teams: the Crisis Negotiation Team (CNT) and the Special Weapons and Tactics Team (SWAT). The unit has been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appear to be necessary. This policy is written to comply with the guidelines established in the Attorney General's Commission on Special Weapons and Tactics Report (September 2002) and the POST 2005 SWAT Operational Guidelines and Standardized Training Recommendations (Penal Code § 13514.1).

### 408.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to the Crisis Response Unit are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a police response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to department personnel allowing for appropriate on scene decision making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

### 408.1.2 SWAT TEAM DEFINED

A SWAT team is a designated unit of law enforcement officers that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units including, but not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of department policy, such a unit may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

### 408.1.3 SWAT TEAM COMPOSITION

The SWAT Team is comprised of [redacted]. Members are assigned to one of the following positions:

(a) **Team Leader (TL):** The Team Leader is responsible for:

1. Direct supervision of SWAT team members during training and deployment;
2. Direction of team movement during operations;
3. Function as a member of the tactical team.

(b) **Assistant Team Leader (ATL):** The Assistant Team Leader is responsible for:

1. Assisting the Team Leader as assigned;
2. Assume the TL's role in that person's absence; and

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3. Function as a member of the tactical team.

(c) **Operators:** [redacted] team members will be assigned as members of the tactical team. They function as team members with the responsibility of completing the team's mission.

(d) **Snipers:** [redacted] team members may be assigned as sniper. Their responsibilities include deploying as a sniper/observer as directed by the Team Leader and functioning as a member of the tactical team.

408.1.4 CRISIS NEGOTIATION TEAM COMPOSITION

The CNT is comprised of [redacted]. Members are assigned to one of the following positions:

(a) **CNT Team Leader:** The CNT Team Leader reports to the tactical commander and is responsible for:

1. Coordinating team training;
2. Monitoring negotiations during deployment;
3. Serving as the CNT liaison with the tactical commander;
4. Supervising team members.

(b)

(c) **CNT Team Members:** Team members are assigned to function as:

1. Negotiators;
2. Interview involved parties;
3. Gather intelligence;
4. Coordinate with outside agencies);
5. Coordinate with the Command Post.

## 408.2 POLICY

It shall be the policy of this department to maintain a SWAT team and to provide the equipment, manpower, and training necessary to maintain a SWAT team. The SWAT team should develop sufficient resources to perform three basic operational functions:

(a) Command and Control

(b) Containment

(c) Entry/Apprehension/Rescue

It is understood it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to

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a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

### 408.2.1 POLICY CONSIDERATIONS

A needs assessment should be conducted to determine the type and extent of SWAT missions and operations appropriate to this department. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the SWAT Commander or his/her designee.

### 408.2.2 ORGANIZATIONAL PROCEDURES

This department shall develop a separate written set of organizational procedures which should address, at minimum, the following:

(a) Locally identified specific missions the team is capable of performing.

(b) Team organization and function.

(c) Personnel selection and retention criteria.

(d) Training and required competencies.

(e) Procedures for activation and deployment.

(f) Command and control issues, including a clearly defined command structure.

(g) Multi-agency response.

(h) Out-of-jurisdiction response.

(i) Specialized functions and supporting resources.

### 408.2.3 OPERATIONAL PROCEDURES

This department shall develop a separate written set of operational procedures in accordance with the determination of their level of capability, using sound risk reduction practices. The operational procedures should be patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to CRU members and will outline tactical and officer safety issues, they are not included within this policy. The operational procedures should include, at minimum, the following:

(a) Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).

1. All SWAT team members should have an understanding of operational planning.
2. SWAT team training should consider planning for both spontaneous and planned events.
3. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.

(b) Plans for mission briefings conducted prior to an operation, unless circumstances require immediate deployment.

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1. When possible, briefings should include the specialized units and supporting resources.

(c) Protocols for a sustained operation should be developed which may include relief, rotation of personnel and augmentation of resources.

(d) A generic checklist to be worked through prior to initiating a tactical action as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT.

(e) The appropriate role for a trained negotiator.

(f) A standard method of determining whether or not a warrant should be regarded as high-risk.

(g) A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.

(h) Post incident scene management including:

1. Documentation of the incident.
2. Transition to investigations and/or other units.
3. Debriefing after every deployment of the SWAT team.
    (a) After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments, helps to identify training needs, and reinforces sound risk management practices.
    (b) Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.
    (c) In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
    (d) When appropriate, debriefing should include specialized units and resources.

(i) Sound risk management analysis.

(j) Standardization of equipment deployed.

(k) Refer to the SWAT Manual, which is maintained by the SWAT Supervisors, for further information on SWAT operations.

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## 408.3 TRAINING NEEDS ASSESSMENT

The SWAT/CRU Commander shall conduct an annual SWAT Training needs assessment to ensure that training is conducted within team capabilities, department policy and the training guidelines as established by POST (11 C.C.R. § 1084).

### 408.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors/team leaders should not be deployed until successful completion of the POST-certified Basic SWAT Course or its equivalent.

(a) To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

### 408.3.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors/team leaders should complete update or refresher training as certified by POST, or its equivalent, every 24 months.

### 408.3.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST-certified SWAT commander or tactical commander course, or its equivalent.

### 408.3.4 SWAT ONGOING TRAINING

Training shall be coordinated by the CRU Commander. The CRU Commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training shall consist of the following:

(a) Each SWAT member shall perform a physical fitness test twice each year. A minimum qualifying score must be attained by each team member.

(b) Any SWAT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest and attain a qualifying score. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.

(c) Those members who are on vacation, ill, or are on light duty status with a doctor's note of approval on the test date, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who

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fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed to attain a qualifying score for that test period.

(d) Quarterly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the CRU Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.

(e) Each SWAT team member shall complete the quarterly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Rangemaster who has been approved by the CRU commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

#### 408.3.5 TRAINING SAFETY

Use of a designated safety officer should be considered for all tactical training.

#### 408.3.6 SCENARIO BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

#### 408.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Personnel and Training Unit. A separate agency SWAT training file shall be maintained with documentation and records of all team training.

### 408.4 UNIFORMS, EQUIPMENT, AND FIREARMS

#### 408.4.1 UNIFORMS

SWAT teams from this agency should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission.

#### 408.4.2 EQUIPMENT

SWAT teams from this agency should be adequately equipped to meet the specific mission(s) identified by the agency.

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408.4.3 FIREARMS
Weapons and equipment used by SWAT, the specialized units, and the supporting resources should be agency-issued or approved, including any modifications, additions, or attachments.

408.4.4 OPERATIONAL READINESS INSPECTIONS
The CRU Commander shall appoint a CRU supervisor to perform operational readiness inspections of all unit equipment at least quarterly. The result of the inspection will be forwarded to the CRU Commander in writing. The inspection will include personal equipment issued to members of the unit, operational equipment maintained in the CRU facility and equipment maintained or used in CRU vehicles.

## 408.5 MANAGEMENT/SUPERVISION OF CRISIS RESPONSE UNIT
The Chief of Police will designate the CRU Captain who has ultimate responsibility for the CRU.

408.5.1 PRIMARY UNIT MANAGER
Under the direction of the Police Chief, through the assigned Captain, the Crisis Response Unit will be managed by the SWAT Team Tactical Commander. The CRT Team Leader will report to the Tactical Commander

408.5.2 TEAM SUPERVISORS
At least one sergeant will supervise the Crisis Negotiation Team and one sergeant (Team Leader) will supervise the Special Weapons and Tactics Team. Additionally, the Special Weapons and Tactics Team will have an Assistant Team Leader. The team supervisors shall be selected by the Assigned CRU Captain upon specific recommendation by staff. The following represent the supervisor's responsibilities for the Crisis Response Unit:

(a) The Crisis Negotiation Team supervisor's primary responsibility is to supervise the operations of the Crisis Negotiation Team which will include deployment, training, first line participation, and other duties as directed by the CRU Captain.

(b) The Special Weapons and Tactics Team supervisor's primary responsibility is to supervise the operations of the SWAT Team, which will include deployment, training, first line participation, and other duties as directed by the CRU Captain.

## 408.6 CRISIS NEGOTIATION TEAM ADMINISTRATIVE PROCEDURES
The Crisis Negotiation Team has been established to provide skilled verbal communicators who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves, or have suicidal tendencies.

The following procedures serve as directives for the administrative operation of the Crisis Negotiation Team.

408.6.1 SELECTION OF PERSONNEL
Interested sworn personnel, who are off probation, shall submit an intradepartmental transfer request to their appropriate Division Captain. A copy will be forwarded to the CRU Captain.

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Qualified applicants will then be invited to an oral interview. The oral board will consist of the, Crisis Resolution Team Lieutenant, the CRU Supervisor, and a third person to be selected by these two members of the oral board. Interested personnel shall be evaluated by the following criteria:

(a) Recognized competence and ability as evidenced by performance.

(b) Demonstrated good judgment and understanding of critical role of negotiator and negotiation process.

(c) Effective communication skills to ensure success as a negotiator.

(d) Special skills, training, or appropriate education as it pertains to the assignment.

(e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations.

The oral board shall submit a list of successful applicants to the CRU Division Captain for final selection.

### 408.6.2 TRAINING OF NEGOTIATORS

Those officers selected as members of the Negotiation Team should attend the Basic Negotiators Course as approved by the Commission on Peace Officer Standards and Training (POST) prior to primary use in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training necessary to maintain proper skills. This will be coordinated by the team supervisor.

The Crisis Negotiation Team also participates in joint training exercises with the SWAT team a minimum of twice a year

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the team supervisor. Performance and efficiency levels, established by the team supervisor, will be met and maintained by all team members. Any member of the Negotiation Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the unit.

## 408.7 SWAT TEAM ADMINISTRATIVE PROCEDURES

The Special Weapons and Tactics (SWAT) Team was established to provide a skilled and trained team which may be deployed during events requiring specialized tactics in such situations as cases where suspects have taken hostages and/or barricaded themselves as well as prolonged or predictable situations in which persons armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the Special Weapons and Tactics Team.

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### 408.7.1 SELECTION OF PERSONNEL

Interested sworn personnel who are off probation shall submit an application for special assignment to their appropriate Division Captain, a copy of which will be forwarded to the CRU Captain. Those qualifying applicants will then be invited to participate in the testing process. The order of the tests will be given at the discretion of the CRU Captain. The testing process will consist of an oral board, physical agility, and a basic SWAT handgun qualification shoot.

(a) **Oral board:** The oral board will consist of personnel selected by the CRU Commander. Applicants will be evaluated by the following criteria:

1. Recognized competence and ability as evidenced by performance;
2. Demonstrated good judgment and understanding of critical role of SWAT member;
3. Special skills, training, or appropriate education as it pertains to this assignment; and,
4. Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions, and training obligations.
5. In an oral presentation, candidates will verbally demonstrate their usage of special weapons and tactical knowledge in a given critical incident scenario. Follow up questions may arise at the conclusion of the candidates presentation.

(b) **Physical agility**: The physical agility test is designed to determine the physical capabilities of the applicant as it relates to performance of SWAT-related duties. The test and scoring procedure will be established by the CRU Commander. A minimum qualifying score shall be attained by the applicant to be considered for the position. Currently the physical agility test consists of:

1. 880 yard run-During this run the candidate is expected to maneuver between cones while doing a single push-up at each cone and dragging a body bag ten yards that can weigh between 175 and 225 pounds.
2. Pull ups-While wearing full SWAT attire the candidate will complete two full pull ups.
3. 40 yard dash-While wearing a ballistic vest and carrying a shotgun, the candidate will run 40 yards in eight seconds or less.

(c) **SWAT Basic Handgun Drill:** Candidates will be invited to shoot the Palo Alto SWAT Basic Handgun Drill. Using their handgun, candidates will shoot a course designed to test their abilities while on the move. A minimum score of 80% is required for passing.

(d) **Evaluation:** The last two years of quarterly qualifications will be reviewed. The applicant must have averaged 80% or higher. A list of successful applicants shall be submitted to staff, by the CRU Commander, for final selection..

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(e) A list of successful applicants shall be submitted to staff, by the CRU Commander, for final selection.

408.7.2 TEAM EVALUATION

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the CRU Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs/functions at a level less than satisfactory or partakes in action detrimental to the team shall be subject to dismissal from the team.

## 408.8 OPERATION GUIDELINES FOR CRISIS RESPONSE UNIT

The following procedures serve as guidelines for the operational deployment of the Crisis Response Unit. Generally, the Special Weapons and Tactics Team and the Crisis Negotiation Team will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the Crisis Negotiation Team such as warrant service operations. This shall be at the discretion of the CRU Commander.

408.8.1 ON-SCENE DETERMINATION

The supervisor in charge on the scene of a particular event will assess whether the Crisis Response Unit is to respond to the scene. Upon final determination by the Watch Commander, he/she will notify the CRU Commander.

408.8.2 APPROPRIATE SITUATIONS FOR USE OF CRISIS RESPONSE UNIT

The following are examples of incidents which may result in the activation of the Crisis Response Unit:

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

408.8.3 OUTSIDE AGENCY REQUESTS

Requests by field personnel for assistance from outside agency crisis units must be approved by the assigned Captain. Deployment of the Palo Alto Police Department Crisis Response Unit in response to requests by other agencies must be authorized by a Division Captain.

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### 408.8.4 MOBILIZATION OF CRISIS RESPONSE UNIT

The on-scene Supervisor shall make a request to the Watch Commander for the Crisis Response Unit. The Watch Commander shall then notify the CRU Commander. If unavailable, the Investigative Services Captain shall be contacted to gain approval. The Watch Commander should advise the CRU Commander as follows:

(a) The number of suspects, known weapons and resources.

(b) If the suspect is in control of hostages.

(c) If the suspect is barricaded.

(d) The type of crime involved.

(e) If the suspect has threatened or attempted suicide.

(f) The location of the command post and a safe approach to it.

(g) The extent of any perimeter and the number of officers involved.

(h) Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

Communications shall then call selected Crisis Response Unit officers to respond, via pager.

### 408.8.5 FIELD UNIT RESPONSIBILITIES

While waiting for the Crisis Response Unit, field personnel should, if safe, practical and sufficient resources exist:

(a) Establish an inner and outer perimeter.

(b) Establish a command post outside of the inner perimeter.

(c) Establish an arrest/response team. The team actions may include:

1. Securing any subject or suspect who may surrender.
2. Taking action to mitigate a deadly threat or behavior.

(d) Evacuate any injured persons or citizens in the zone of danger.

(e) Attempt to establish preliminary communication with the suspect. Once the CRU has arrived, all negotiations should generally be halted to allow the negotiators and SWAT time to set up.

(f) Be prepared to brief the CRU Commander on the situation.

(g) Plan for, and stage, anticipated resources.

### 408.8.6 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of the Crisis Response Unit at the scene, the Incident Commander shall brief the CRU Commander and team supervisors about the situation. Upon review, it will be the Incident Commander's decision, with input from the CRU Commander, whether to deploy the Crisis

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Response Unit. Once the Incident Commander authorizes deployment, the CRU Commander will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security, and support for the Crisis Response Unit. The Incident Commander and the CRU Commander (or his or her designee) shall maintain communications at all times.

### 408.8.7 COMMUNICATION WITH CRISIS RESPONSE UNIT PERSONNEL

All of those persons who are non-Crisis Response Unit personnel should refrain from any non-emergency contact or interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel and, as a result, no one should interrupt or communicate with Crisis Team personnel directly. All non-emergency communications shall be channeled through the Negotiation Team Sergeant or his or her designee.

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# Ride-Along Policy

## 410.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process, and hours of operation for the Ride-Along Program.

### 410.1.1 ELIGIBILITY

The Palo Alto Police Department Ride-Along Program may be offered to residents, students and those employed within the City. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 15 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

### 410.1.2 AVAILABILITY

The Ride-Along Program is available on most days of the week, with certain exceptions. The ride-along times are from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief of Police, Division Captain, or Watch Commander.

## 410.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the Personnel and Training. The participant will complete a ride-along waiver form. Information requested will include a valid ID or California driver’s license, address, and telephone number. If the participant is under 18 years of age, a parent/guardian must be present to complete the Ride-Along Form.

The Personnel and Training will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective Watch Commander as soon as possible for his/her scheduling considerations.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

### 410.2.1 PROGRAM REQUIREMENTS

Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Cadets, Explorers, RSVP, Chaplains, Reserves, police applicants, and all others with approval of the Watch Commander.

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An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the officer's vehicle at a given time.

Ride-along requirements for policeExplorers are covered in Policy 1048.

410.2.2 SUITABLE ATTIRE

Any person approved to ride along is required to be suitably dressed in collared shirt, blouse or jacket, slacks and shoes. Sandals, T-shirts, tank tops, shorts and ripped or torn blue jeans are not permitted. Hats and ball caps will not be worn in the police vehicle. The Watch Commander or field supervisor may refuse a ride along to anyone not properly dressed.

410.2.3 PEACE OFFICER RIDE-ALONGS

Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty officers without the expressed consent of the Watch Commander. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK

All Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the Palo Alto Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

## 410.3 OFFICER'S RESPONSIBILITY

The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

The Personnel and Training is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the yellow form shall be returned to the Personnel and Training with any comments which may be offered by the officer.

## 410.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

(a) The ride-along will follow the directions of the officer

(b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment

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(c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties

(d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety

(e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen

(f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

**410.5 POLICY ISSUE DATE**

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# Hazardous Material Response

## 412.1 PURPOSE AND SCOPE

Exposure to hazardous materials presents potential harm to [department/office] members and the public. This policy outlines the responsibilities of members who respond to these events and the factors that should be considered while on-scene, including the reporting of exposures and supervisor responsibilities. To comply with 8 CCR § 5194, the following is to be the policy of this [department/office].

### 412.1.1 DEFINITIONS

Definitions related to this policy include:

**Hazardous material** – A substance which, by its nature, containment, or reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

## 412.2 HAZARDOUS MATERIAL RESPONSE

Members may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill, or fire. When members come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

(a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest, or statements from the person transporting).

(b) Notify the fire department.

(c) Provide first-aid for injured parties if it can be done safely and without contamination.

(d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.

(e) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).

(f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety Code § 79355).

## 412.3 REPORTING EXPOSURE

[Department/Office] members who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the member in an employee memorandum that shall be forwarded via chain of command to the Watch Commander as soon as practicable. Should the affected member be unable to document

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the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the report.

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report as applicable.

### 412.3.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that a member has been exposed to a hazardous material, the supervisor shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of members, safety equipment is available through supervisory personnel. Safety items not maintained by the [Department/Office] will be obtained through the fire department.

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# Hostage and Barricade Incidents

## 414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

### 414.1.1 DEFINITIONS

Definitions related to this policy include:

**Barricade situation** - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

**Hostage situation** - An incident where it is reasonable to believe a person is:

(a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

(b) Unlawfully held against his/her will under threat or actual use of force.

## 414.2 POLICY

It is the policy of the Palo Alto Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

## 414.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, [department/office]-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

### 414.3.1 EMERGENCY COMMUNICATIONS

[redacted]

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[redacted]

## 414.4 FIRST RESPONDER CONSIDERATIONS

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

### 414.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

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(c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(d) Provide responding emergency personnel with a safe arrival route to the location.

(e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

(f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.

(g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.

(h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(i) Determine the need for and notify the appropriate persons within and outside the [Department/Office], such as command officers and the Press Information Officer ([PIO]).

(j) [redacted]

(k) Establish a command post.

### 414.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

(d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.

(e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(f) Provide responding emergency personnel with a safe arrival route to the location.

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(g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

(h) Coordinate pursuit or surveillance vehicles and control of travel routes.

(i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.

(j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.

(k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(l) Determine the need for and notify the appropriate persons within and outside the [Department/Office], such as command officers and the [PIO].

(m) [redacted]

## 414.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a [Crisis Response Unit] ([CRU]) response if appropriate and apprising the [CRU] Commander of the circumstances. In addition, the following options should be considered:

(a) Ensure injured persons are evacuated and treated by medical personnel.

(b) Ensure the completion of necessary first responder responsibilities or assignments.

(c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.

(d) Establish a command post location as resources and circumstances permit.

(e) Designate assistants who can help with intelligence information and documentation of the incident.

(f) If it is practicable to do so, arrange for video documentation of the operation.

(g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).

1. When considering restricting communication services, a supervisor should make the determination that there is reason to believe an emergency situation exists involving immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the [Department/Office] obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be

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submitted within six hours after initiating the interruption. If six hours is not possible, then the application for the court order shall be made at the first reasonably available opportunity, but no later than 24 hours in accordance with Penal Code § 11475.

(h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or the Communications Center.

(i) Identify a media staging area outside the outer perimeter and have the [department/ office] Press Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.

(j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.

(k) Debrief personnel and review documentation as appropriate.

## 414.6 [CRU] RESPONSIBILITIES

The Incident Commander will decide, with input from the [CRU] Commander, whether to deploy the [CRU] during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the [CRU] Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the [CRU]. The Incident Commander and the [CRU] Commander or the authorized designee shall maintain communications at all times.

## 414.7 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

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# Response to Bomb Calls

## 416.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Palo Alto Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

## 416.2 POLICY

It is the policy of the Palo Alto Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

## 416.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Watch Commander is immediately advised and informed of the details. This will enable the Watch Commander to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

## 416.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

### 416.4.1 PALO ALTO POLICE DEPARTMENT FACILITY

If the bomb threat is against the Palo Alto Police Department facility, the Watch Commander will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

### 416.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Palo Alto Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Watch Commander deems appropriate.

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### 416.4.3 FEDERAL BUILDING OR PROPERTY

If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

## 416.5 PRIVATE FACILITY OR PROPERTY

When a member of this department receives notification of a bomb threat at a location in the City of Palo Alto, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

(a) The location of the facility.

(b) The nature of the threat.

(c) Whether the type and detonation time of the device is known.

(d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.

(e) Whether the individual is requesting police assistance at the facility.

(f) Whether there are any internal facility procedures regarding bomb threats in place, such as:

1. No evacuation of personnel and no search for a device.
2. Search for a device without evacuation of personnel.
3. Evacuation of personnel without a search for a device.
4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Watch Commander is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

### 416.5.1 ASSISTANCE

The Watch Commander should be notified when police assistance is requested. The Watch Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Watch Commander determine that the Department will assist or control such an incident, he/she will determine:

(a) The appropriate level of assistance.

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(b) The plan for assistance.

(c) Whether to evacuate and/or search the facility.

(d) Whether to involve facility staff in the search or evacuation of the building.

1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
2. The safety of all participants is the paramount concern.

(e) The need for additional resources, including:

1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

### 416.6 FOUND DEVICE

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

(a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.

(b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.

(c) [redacted]

(d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.

(e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.

(f) A safe access route should be provided for support personnel and equipment.

(g) [redacted]

(h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.

(i) Promptly relay available information to the Watch Commander including:

1. The time of discovery.

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2. The exact location of the device.
3. A full description of the device (e.g., size, shape, markings, construction).
4. The anticipated danger zone and perimeter.
5. The areas to be evacuated or cleared.

## 416.7 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

### 416.7.1 CONSIDERATIONS

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

(a) Assess the scope of the incident, including the number of victims and extent of injuries.
(b) Request additional personnel and resources, as appropriate.
(c) Assist with first aid.
(d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
(e) Assist with the safe evacuation of victims, if possible.
(f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
(g) Preserve evidence.
(h) Establish an outer perimeter and evacuate if necessary.
(i) Identify witnesses.

### 416.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel, such as investigators and the CSI Team
- Field supervisor
- Watch Commander
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

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### 416.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

### 416.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Watch Commander should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

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# Mental Illness Commitments

## 418.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

## 418.2 POLICY

It is the policy of the Palo Alto Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

## 418.3 AUTHORITY

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, officers are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

(a) An individual who is providing or has provided mental health treatment or related support services to the person

(b) A family member

(c) The person subject to the determination or anyone designated by the person

### 418.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a 5150 commitment, the officer may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:

(a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.

(b) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

If at any point the person changes their mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.

## 418.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

(a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.

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(b) Community or neighborhood mediation services.

(c) Conflict resolution and de-escalation techniques.

(d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others. If the individual reasonably appears to the officers to be in need of medical care, officers should ensure that it is obtained as soon as it is safe to do so.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

#### 418.4.1 SECURING OF PROPERTY

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual’s personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The officer taking the person into custody shall provide a report to the court that describes the person’s property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

### 418.5 TRANSPORTATION

Transport for any individual for a 5150 commitment shall be conducted in accordance with the Transporting Persons in Custody Policy.

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy.

### 418.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

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## 418.7 DOCUMENTATION

The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for officer involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

### 418.7.1 ADVISEMENT

The officer taking a person into custody for evaluation shall advise the person of:

(a) The officer's name and agency.

(b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.

(c) The name of the facility to which the person is being taken.

(d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

## 418.8 CRIMINAL OFFENSES

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

(a) Arrest the individual when there is probable cause to do so.

(b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.

(c) Facilitate the individual's transfer to jail.

(d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

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In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this [department/office] to regain custody of the individual, [department/office] resources (e.g., posting a guard) and other relevant factors in making this decision.

## 418.9 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see the Property and Evidence Section Policy).

### 418.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Investigative Services, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the [Department/Office] makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the [Department/Office] shall send written notice to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

## 418.10 TRAINING

This [department/office] will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

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# Psychiatric Emergency Response Team (PERT)

## 419.1 PURPOSE AND SCOPE

The Psychiatric Emergency Response Team (PERT) is a collaborative effort between the Palo Alto Police Department and the Santa Clara County Behavioral Health Services Department. The intent of the PERT program is to combine the unique resources, skills, experience and training of personnel from two different professions (law enforcement and mental health services) to provide the best possible response to situations involving persons with mental illness. The team's primary objective is to provide rapid intervention to a person in mental health crisis by de-escalating the situation and stabilizing it in the least restrictive way possible, and then striving to get that person the help they need.

## 419.2 PERT PROGRAM COMPOSITION

The Psychiatric Emergency Response Team is a two-person unit comprised of an officer or agent employed by the Palo Alto Police Department, and a licensed mental health clinician employed by the Santa Clara County Behavioral Health Services Department. Using the unique resources available to each profession, the team combines those resources to provide the highest possible level of service to someone in mental health crisis, with the goal to do so, whenever possible, before the mental health situation decompensates or requires hospitalization. The PERT unit strives to provide a more comprehensive and compassionate level of service to community members with mental illness.

## 419.3 UTILIZATION OF THE PERT UNIT

The PERT unit should be dispatched to calls involving a subject who is reasonably believed to be in mental health crisis, or where there is a reasonable expectation that the subject may harm themselves or others as a result of a mental condition. Their response is not limited to active crisis episodes; the unit may be dispatched to assist in any incident that may involve a mental health component.

When not actively responding to in-progress calls, the PERT unit can conduct follow-up visits to provide resources or other assistance to community members with mental illness. The team will also act on non-emergency referrals from other personnel as their time allows.

The PERT unit will serve as the primary Department resource for handling long-term or ongoing concerns related to the unhoused population if there is a significant mental health component involved.

It is important to note that the PERT unit does not function as, nor does it take the place of, the Crisis Negotiation Team. The PERT unit members are not negotiators, unless they are separately cross-trained as a member of the Crisis Negotiation Team. Instead, should the incident require the assistance of the Crisis Negotiation Team, the PERT officer and clinician shall provide negotiators with a summary of the incident and remain on scene for support.

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The PERT unit's role in any incident where the Crisis Negotiation Team or any other specialized team is needed is to provide support to the incident command staff managing the incident. The PERT clinician may be utilized by the incident command staff to provide relevant mental health history on the subject if that would help end the situation peacefully.

## 419.4 PERT OFFICER – SELECTION AND TRAINING

The Palo Alto Police Department officer or agent assigned to the PERT unit is an experienced law enforcement professional who has an extensive background in successfully and compassionately working with community members who are in mental health crisis.

### 419.4.1 SELECTION PROCESS

PERT officers will be selected based, in part, upon the following minimum requirements:

1. Minimum of three years of patrol experience, at least two of which must be with this agency
2. Willingness to work a 4/10 shift schedule, outside of the traditional 4/11 patrol assignment
3. Successful completion of POST-certified 24-hour Crisis Intervention Team (CIT) training
4. Outstanding oral and written communication skills
5. A proven ability to work closely and successfully with others as part of a team
6. A proven ability to compassionately work with community members who have mental illness

The PERT unit is a one-year minimum, three-year maximum full-time specialty assignment.

### 419.4.2 TRAINING

The PERT officer will remain current with all ongoing POST in-service training mandates, and should also seek out additional training opportunities that would benefit them in their position. These could include courses on tactical communication, recognizing and identifying signs and symptoms of mental illness, de-escalation strategies, and more.

## 419.5 OPERATIONAL PROCEDURES

What follows are the operational procedures guiding the day-to-day operations of the PERT unit and how it relates to and interacts with other Field Services Division personnel.

### 419.5.1 GENERAL OPERATIONAL CONSIDERATIONS

1. If other non-PERT personnel arrive at a scene first, they will provide the PERT unit with a detailed summary of the circumstances.
2. Other non-PERT personnel shall not clear the scene unless and until it is secure from an officer safety standpoint, and the PERT officer on scene gives their approval for the other personnel to clear.

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1. To the extent possible, officers will ensure that no weapons, or items that could be used as weapons, are located within the area in which the PERT unit will be communicating with the subject.
1. Non-PERT personnel and the PERT officer shall have open lines of communication while on scene to ensure safety strategies are known and established, should the subject make an unexpected aggressive action.
1. If the subject meets the criteria under 5150 W&I, the PERT officer will coordinate physical transportation of the subject to an approved mental health facility.
1. If a misdemeanor crime (not involving violence or a threat of violence) has been committed by the subject, the PERT officer will balance the need for a physical arrest with providing the subject mental health services. If appropriate, the PERT officer may cite and release the subject.

### 419.5.2 UNIFORM

1. The PERT officer will wear an approved Department polo shirt bearing their name and an embroidered badge, and approved Department 5/11 pants.
2. The PERT officer will wear all normal duty equipment to include a body-worn camera.

### 419.5.3 VEHICLE

1. The PERT unit will be assigned a Department-owned unmarked vehicle, to be driven by the PERT officer.
2. The PERT clinician will not operate the Department-owned unmarked vehicle.

### 419.5.4 RESPONSIBILITIES OF THE PERT OFFICER

1. To provide safety for the community, clients, and potential clients.
2. To the extent possible, be responsible for the safety of the PERT clinician.
3. In all instances where the PERT unit establishes probable cause to detain and transport a subject to a mental health facility pursuant to 5150 W&I, the PERT officer shall document the circumstances in a police report. Either the PERT clinician or the PERT officer can complete the Application for 72-Hour Hold form.
4. When a subject is detained or apprehended for examination of his/her mental condition or who is a person described in Welfare and Institution Code (W&I) Section 8100 or 8103, is found to own, or have in his/her possession or under control, any firearm, or any other deadly weapon, the item(s) shall be confiscated by the PERT officer pursuant to the provisions of 8102 W&I. Officers shall not confiscate firearms or any deadly weapon(s) unless the items are in plain view, they have received consent to search and retrieve the item(s), or pursuant to a search warrant. Circumstances surrounding the confiscation of firearm(s) or weapon(s) shall be documented in a police report.
1. The PERT officer shall consider the need for a Gun Violence Restraining Order (GVRO) and request one if appropriate for the circumstances.

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1. To provide or coordinate necessary transportation of individuals to designated mental health facilities when a 72-hour evaluation is placed on a cooperative subject. For uncooperative subjects, the PERT officer will consult the on-duty field supervisor to determine the safest and most appropriate method of transportation.
2. To provide or assist in coordination of transportation to mental health service centers or facilities when such support and services would be beneficial (regardless of whether a 72-hour evaluation hold is issued), and there is cooperation from the subject.
3. To remain informed on current legal and ethical issues related to mental illness and law enforcement.
4. To ensure the Department's requirements for detention and transportation pursuant to 5150 W&I are met. This includes completion of all appropriate reports.
5. To participate in PERT training sessions and staff meetings.
6. To present the PERT program to all in a positive, professional manner.
7. To conduct presentations to educate others about the mission and focus of PERT.To provide mental health training and expertise to other Department staff.

### 419.5.5 RESPONSIBILITIES OF THE PERT CLINICIAN

1. To help conduct mental health evaluations and assessments of individuals.
2. To assist in determining the appropriate disposition supporting individuals' needs and safety.
3. To consult with PERT officer regarding disposition of individuals and law enforcement issues.
4. To maintain knowledge of the criteria for psychiatric disorders according to the current Diagnostic and Statistical Manual of Mental Disorders.
5. To maintain knowledge of current legal and ethical issues as they relate to mental illness.
6. To maintain licensing as required.
7. To ensure requirements for detention and transportation pursuant to 5150 W&I are met.
8. Provide documentation to the PERT officer supporting the decision to detain and transport a subject pursuant to 5150 W&I.
9. To provide or assist in coordination of transportation to mental health service centers or facilities when such support and services would be beneficial (regardless of whether a 72-hour evaluation hold is issued), and there is cooperation from the subject.
10. To maintain a law enforcement security clearance.
11. To present the PERT program to all in a positive, professional manner.
12. To conduct presentations to educate others about the mission and focus of PERT.
13. To provide mental health training and expertise to other Department staff.

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14. The PERT clinician shall not engage in law enforcement activities that are not related to the PERT mission and focus.

### 419.5.6 TARASOFF WARNINGS

If the PERT clinician receives information during a mental health evaluation that would warrant warning a threatened individual or location in compliance with the Tarasoff decision, the following procedures will apply:

1. The PERT clinician will notify the PERT officer of the threat, as required. The PERT clinician will advise the officer of the obligation to report under Tarasoff.
2. The PERT clinician or officer will make every reasonable effort to notify the threatened individual or location of the threat(s) as required.
3. The PERT officer will complete a crime report. If the person threatened resides outside of Palo Alto, the PERT officer will notify the appropriate law enforcement jurisdiction of the location where the victim lives or is located.
4. The PERT officer shall notify the on-duty field supervisor of the threat and evaluate the need to investigate the circumstances further.

### 419.5.7 REFERRALS TO PERT

Any staff member of the Palo Alto Police Department may request that the PERT unit conduct non-emergency follow up on certain individuals who may warrant additional mental health assistance or resources. These circumstances may include, but are not limited to, the following:

1. An individual who does not meet the criteria for a 72-hour evaluation, but whom personnel believe would still benefit from the expertise of the PERT clinician.
2. An individual who has requested non-emergency information on psychiatric issues that the PERT unit may be able to provide.
3. Individuals who are experiencing homelessness and may require mental health resources.

Non-emergency referrals to PERT can be made by completing the “PERT Referral Form” and sending it via e-mail to the PERT officer and the PERT clinician. The PERT unit will log the request and perform the necessary follow-up in a reasonable period of time.

### 419.5.8 CONFIDENTIALITY

The PERT clinician is responsible for maintaining clinical records. Accordingly, all information and records created in the course of providing services shall be kept confidential in accordance with 5328 W&I.

Independent observations of a subject made by the PERT officer might not be included in the clinical files and might not be confidential. Information on a police report may also not be considered confidential.

Observations made by the PERT officer specific to the decision to take a subject into protective custody and transport them to a mental health facility (which are specific requirements for 5150 W&I) are not confidential and may be included in the PERT officer’s police report.

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### 419.5.9 TRANSPORTATION

In many cases, the PERT unit will transport subjects detained for mental health considerations themselves. In these circumstances, the PERT officer will be responsible for safety considerations, while the PERT clinician will maintain observation of the detained individual.

The PERT unit personnel should be observant of the medical needs of the detained individual. If the detained individual exhibits any signs of medical distress, the PERT unit personnel should consider requesting an ambulance to transport. If an ambulance transports the individual, the PERT unit will follow the ambulance to the facility to ensure appropriate placement.

The following safety precautions are necessary for the safety of the PERT officer, PERT clinician, and staff at the receiving facility:

1. The PERT officer must search the detained individual for weapons, controlled substances, or other contraband prior to placing them into a vehicle for transport. The PERT clinician is not responsible for searching the detained individual.
2. When the individual is cooperative, the PERT unit should transport a cooperative detained individual to the most appropriate psychiatric facility.

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# Cite and Release Policy

## 420.1 PURPOSE AND SCOPE

This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail.

## 420.2 POLICY

It is the policy of the Palo Alto Police Department to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Department's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

## 420.3 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private person's arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing officer shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps they deem necessary to ensure that the defendant understands their written promise to appear.

### 420.3.1 FIELD CITATIONS

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting officer should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

## 420.4 NON-RELEASE

### 420.4.1 NON FIELD RELEASE

A subject arrested on a misdemeanor warrant with bail of $15,000.00 or greater will not be released in the field, but will be booked into county jail.

### 420.4.2 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

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(a) Misdemeanor domestic battery (Penal Code § 243(e)(1))

(b) Felony domestic battery (Penal Code § 273.5)

(c) Serious or violent felonies (Penal Code § 1270.1(a)(1))

(d) Felony intimidation of witnesses and victims (Penal Code § 136.1)

(e) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)

(f) Stalking (Penal Code § 646.9)

(g) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

### 420.4.3 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Department and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

(a) The person arrested is so intoxicated that they could be a danger to themselves or to others. Release may occur as soon as this condition no longer exists.

(b) The person arrested requires medical examination or medical care or is otherwise unable to care for their own safety.

(c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.

(d) There are one or more outstanding arrest warrants for the person (see Misdemeanor Warrants elsewhere in this policy).

(e) The person could not provide satisfactory evidence of personal identification.

1. If a person released on citation does not have satisfactory identification in their possession, a right thumbprint or fingerprint should be obtained on the citation form.

(f) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.

(g) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.

(h) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.

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(i) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. Reasons may include:

(a) Previous failure to appear is on record

(b) The person lacks ties to the area, such as a residence, job, or family

(c) Unusual circumstances lead the officer responsible for the release of arrested persons to conclude that the suspect should be held for further investigation

(j) A previous conviction, citation, or arrest for misdemeanor or felony retail theft from a store in the previous six months.

(k) There is probable cause to believe that the person arrested is guilty of committing organized retail theft.

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Technical Services Division.

420.4.4 COUNTY SPECIFIC GUIDELINES FOR NON-RELEASE

## 420.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to Watch Commander approval, unless any of the following conditions exist:

(a) The misdemeanor cited in the warrant involves violence.

(b) The misdemeanor cited in the warrant involves a firearm.

(c) The misdemeanor cited in the warrant involves resisting arrest.

(d) The misdemeanor cited in the warrant involves giving false information to a peace officer.

(e) The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics.

(f) The person requires medical examination or medical care or was otherwise unable to care for their own safety.

(g) The person has other ineligible charges pending against themselves.

(h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.

(i) The person refuses to sign the notice to appear.

(j) The person cannot provide satisfactory evidence of personal identification.

(k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

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420.5.1 COMMUNITY ALTERNATIVES TO INCARCERATION
Santa Clara County Protocols, Section 11 - Juvenile Detention Reform Law Enforcment Policy For The Incarceration of Juveniles shall be utilized as a guideline regarding the disposition of youthful offenders. See Policy 324 - Juvenile Procedures for further details.

420.5.2 COUNTY SPECIFIC GUIDELINES

## 420.6 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the Palo Alto City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Investigative Services for further action including diversion.

## 420.7 POLICY ISSUE DATE

Updated: 12-8-16

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# Foreign Diplomatic and Consular Representatives

## 422.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Palo Alto Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 422.2 POLICY

The Palo Alto Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

## 422.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

(a) Notify a supervisor.

(b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.

(c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.

(d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.

(e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

## 422.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

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(a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.

(b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.

(c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.

1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.

(d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:

1. Diplomatic-level staff of missions to international organizations and recognized family members
2. Diplomatic agents and recognized family members
3. Members of administrative and technical staff of a diplomatic mission and recognized family members
4. Career consular officers, unless the person is the subject of a felony warrant

(e) The following persons may generally be detained and arrested:

1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
2. Support staff of missions to international organizations
3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
4. Honorary consular officers
5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

## 422.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

## 422.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

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| Category | Arrested or Detained | Enter Residence Subject to Ordinary Procedures | Issued Traffic Citation | Subpoenaed as Witness | Prosecuted | Recognized Family Members |
|---|---|---|---|---|---|---|
| **Diplomatic Agent** | No (note (b)) | No | Yes | No | No | Same as sponsor (full immunity & inviolability) |
| **Member of Admin and Tech Staff** | No (note (b)) | No | Yes | No | No | Same as sponsor (full immunity & inviolability) |
| **Service Staff** | Yes (note (a)) | Yes | Yes | Yes | No for official acts. Yes otherwise (note (a)) | No immunity or inviolability (note (a)) |
| **Career Consul Officer** | Yes if for a felony and pursuant to a warrant (note (a)) | Yes (note (d)) | Yes | No for official acts Testimony may not be compelled in any case | No for official acts. Yes otherwise (note (a)) | No immunity or inviolability |
| **Honorable Consul Officer** | Yes | Yes | Yes | No for official acts Yes otherwise. | No for official acts Yes otherwise | No immunity or inviolability |
| **Consulate Employees** | Yes (note (a)) | Yes | Yes | No for official acts Yes otherwise. | No for official acts. Yes otherwise (note (a)) | No immunity or inviolability (note (a)) |
| **Int'l Org Staff (note (b))** | Yes (note (c)) | Yes (note (c)) | Yes | Yes (note (c)) | No for official acts. Yes otherwise (note (c)) | No immunity or inviolability |
| **Diplomatic-Level Staff of Missions to Int'l Org** | No (note (b)) | No | Yes | No | No | Same as sponsor (full immunity & inviolability) |
| **Support Staff of Missions to Int'l Orgs** | Yes | Yes | Yes | Yes | No for official acts Yes otherwise | No immunity or inviolability |

Notes for diplomatic immunity table:

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(a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.

(b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.

(c) A small number of senior officers are entitled to be treated identically to diplomatic agents.

(d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

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# Rapid Response and Deployment

## 424.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers in situations that call for rapid response and deployment.

## 424.2 POLICY

The Palo Alto Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the [Department/Office] in protecting themselves or others from death or serious injury.

## 424.3 FIRST RESPONSE

[redacted]

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[redacted]

[redacted]

[redacted]

[redacted]

## 424.7 TRAINING

The Personnel and Training Lieutenant should include rapid response to critical incidents in the training plan. This training should address:

[redacted]

(a) This should include the POST terrorism incident training required for officers assigned to field duties (Penal Code § 13519.12).

[redacted]

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# Immigration Procedures

## 428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Palo Alto Police Department relating to immigration and interacting with federal immigration officials.

### 428.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

**Criminal immigration violation** - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

**Immigration enforcement** - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

**Judicial warrant** - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

## 428.2 POLICY

It is the policy of the Palo Alto Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this Department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

## 428.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or California constitutions.

## 428.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

### 428.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).

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Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Government Code § 15160).

#### 428.4.2 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Members shall not obtain, access, use, or otherwise disclose noncriminal history information maintained by the DMV for immigration enforcement (Vehicle Code § 1808.48).

## 428.5 DETENTIONS AND ARRESTS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

#### 428.5.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

(a) Transfer the person to federal authorities.

(b) Transfer the person to jail.

## 428.6 FEDERAL REQUESTS FOR ASSISTANCE

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this Department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

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### 428.7 IMMIGRATION WARRANTS

During the course of any routine investigation, if an officer learns that an individual has an outstanding criminal felony immigration warrant, personnel may take that individual into custody pursuant to the warrant and book them into jail. Personnel shall not detain or arrest an individual for an outstanding civil immigration hold.

### 428.8 TIME FRAMES FOR COMPLETION OF REQUIRED FORMS

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the appropriate documents needed for a T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the appropriate documents needed for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 90 days of a request from the victim or victim's family related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within 14 days of the request.

### 428.9 REPORTING TO LEGISLATURE

The Investigative Services supervisor or the authorized designee should ensure that U Visa and T Visa certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code §9795 (Penal Code § 679.10; Penal Code § 679.11).

### 428.10 POLICY ISSUE DATE

Updated: 12-8-16

Updated: 3-2-17

Updated: 9/25/17

Updated: 4/5/18

Updated: 3-19-20

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# Emergency Utility Service

## 430.1 PURPOSE AND SCOPE

The City Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

### 430.1.1 BROKEN WATER LINES

The City's responsibility ends at the water meter; any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility.Public Works can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on the City side of the meter, emergency personnel should be called as soon as practical by the Communications Center.

### 430.1.2 ELECTRICAL LINES

City Public Works maintains electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. Public Works should be promptly notified, as appropriate.

### 430.1.3 RESERVOIRS, PUMPS, WELLS, ETC.

Public Works maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

### 430.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by the Communications Center.

## 430.2 TRAFFIC SIGNAL MAINTENANCE

Public Works furnishes maintenance for all traffic signals within the City, other than those maintained by the State of California.

### 430.2.1 OFFICER'S RESPONSIBILITY

Upon observing a damaged or malfunctioning signal, the officer will advise the the Communications Center of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

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# Patrol Rifles and Shotguns

## 432.1 PURPOSE AND SCOPE

In order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects, the Palo Alto Police Department will make patrol rifles available to qualified patrol officers as an additional and more immediate tactical resource.

The Department recognizes that there exists the need to meet all deadly force threats with the most effective equipment possible. In keeping with the policy that officers must be prepared to act decisively to defend innocent lives, the Department has authorized the use of rifles by a specially trained group of officers. The rifle will allow officers to effectively confront all deadly force threats through its accuracy, superior ballistic effectiveness and range capabilities. This group of officers shall be known as Designated Rifle Officers (DRO).

## 432.2 PATROL RIFLE

### 432.2.1 DEFINITION

A patrol rifle is an authorized weapon which is owned by the Department and which is made available to properly trained and qualified officers as a supplemental resource to their duty handgun or shotgun. [redacted]

## 432.3 SPECIFICATIONS

Only weapons and ammunition that meet agency authorized specifications, approved by the Chief of Police, and issued by the Department may be used by officers in their law enforcement responsibilities. The authorized patrol rifle issued by the Department is the Colt AR-15 Tactical Carbine, Model 6721,.223 caliber, Model 6721,.223 caliber. The carbine shall have the following equipment:

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

## 432.4 RIFLE MAINTENANCE

(a) Primary responsibility for maintenance of patrol rifles shall fall on the Rangemaster, who shall inspect and service each patrol rifle on a monthly basis.

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(b) Each patrol officer carrying a patrol rifle may be required to field strip and clean an assigned patrol rifle as needed.

(c) Each patrol officer shall be responsible for promptly reporting any damage or malfunction of an assigned patrol rifle.

(d) Any patrol rifle found to be unserviceable shall be removed from service. The rifle shall be clearly labeled as "out of service" and details regarding the weapon's condition shall be included on the label.

(e) Each patrol rifle shall be subject to inspection by a supervisor or the Rangemaster at any time.

(f) No modification shall be made to any patrol rifle without prior written authorization from the Rangemaster.

## 432.5 TRAINING

(a) Officers shall not carry or utilize the patrol rifle unless they have successfully completed departmental training. This training shall consist of an initial 24-hour patrol rifle user's course and qualification score with a certified patrol rifle instructor. Officers shall thereafter will be required to attend at least ten hours of training on a bi-annual basis.

(b) DRO's must pass their qualification with a minimum score of 90 percent. Any officer who fails to qualify or who fails to successfully complete two or more department sanctioned training/qualification sessions within a calendar year, will no longer be authorized to carry the patrol rifle without successfully retaking the initial patrol officers user's course and qualification.

(c) All DRO Training must be conducted by a POST certified patrol rifle instructor.

## 432.6 DEPLOYMENT OF THE PATROL RIFLE

When on uniformed patrol duty, the DRO shall have her/his rifle in their patrol vehicle. Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

(a) Situations where the officer reasonably anticipates an armed encounter.

(b) When an officer is faced with a situation that may require the delivery of accurate and effective fire at long range.

(c) Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower.

(d) When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage.

(e) When an officer reasonably believes that a suspect may be wearing body armor.

(f) When authorized or requested by a supervisor.

(g) When needed to euthanize an animal.

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### 432.6.1 WEAPONS SELECTION CONSIDERATION

Officers shall be left to determine, based upon their judgement, training and the circumstances they are confronting, which weapon is best suited to meet the needs of the situation at hand. No policy can adequately list all of the factors that should be taken into consideration, but the following can be used as general guidelines:

(a) The suspected crime or event in progress;

(b) The likelihood of a foot pursuit or physical confrontation;

(c) The number of suspects involved;

(d) The type of weapon the suspect(s) may be armed with;

(e) The environment in which the weapon is to be deployed, including terrain, structures, background and proximity to bystanders;

(f) The number of officers already on scene and the types of weapons already being deployed by

## 432.7 DISCHARGE OF THE PATROL RIFLE

The discharge of the patrol rifle shall be governed by the Department's Use of Force Policy, Policy Manual § 300.

## 432.8 PATROL READY

Any qualified officer carrying a patrol rifle in the field shall maintain the weapon in a patrol ready condition until deployed. A rifle is considered in a patrol ready condition when it has been inspected by the assigned officer, the fire selector switch is in the safe position, the chamber is empty and a fully loaded magazine is inserted into the magazine well.

### 432.8.1 FIELD PROCEDURES

(a) Upon going into service, the DRO shall do a full function check of the weapon prior to leaving the station. This check shall be done along the south wall of the police garage. The barrel shall always be pointed in a safe direction. The weapon will then be secured in the rack in the following condition:

1. The chamber shall be empty and the bolt forward;
2. The weapon shall be loaded with a magazine;
3. The safety shall be on.

(b) Upon completion of his/her tour of duty, the DRO shall ensure that the weapon is returned to the rack or duty locker in the following condition:

1. Safety on;
2. Magazine out;
3. Action closed;
4. Finger off trigger;
5. Visibly and physically inspect weapon to insure it is clear.

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## 432.9 RIFLE STORAGE

(a) Weapon shall be mounted in an electronic locking mount located between the driver and passenger seat. Certain other Department vehicles may have electronic mounts located in the trunk of the vehicle. The weapons shall not be carried unsecured in the passenger or trunk area of the vehicle.

(b) When not in the field, the weapon shall be secured in a locked rack located in the FSD radio room, or in the DRO's locked duty locker.

(c) DRO's are responsible for the maintenance and security of the weapon and all associated equipment at all times.

## 432.10 PATROL SHOTGUNS

(a) The only authorized shotgun is the Department issued Mossberg Model #590A1 12-gauge shotgun. The weapon will be equipped with a 14-inch barrel, sidesaddle ammunition carrier, Knoxx stock and a tactical sling.

(b) Duty load for the shotgun will be four 00 buck rounds in the magazine tube, and six slug rounds in the sidesaddle carrier. The weapon will be stored in the shotgun rack of the patrol vehicle with the safety on, the chamber empty and the action closed.

(c) Only Department issued ammunition is authorized.

(d) All officers are required to conduct a daily administrative operational check of the shotgun prior to the beginning of the shift. The authorized area for this procedure is the south wall of the police garage.

(e) When shotguns are not installed in a patrol vehicle, the only other authorized storage location shall be the shotgun racks in the FSD equipment and radio room. Shotguns will have all rounds removed from the magazine tube, the chamber cleared, the safety engaged and the weapon shall be un-cocked.

### 432.10.1 PATROL SHOTGUN TRAINING

Shotgun training will be conducted twice a year during the bi-annual handgun shoots. Training will consist of manipulation drills, movement, weapon familiarity and any other instruction the Range Instructor deems necessary.

Shotgun qualification will be conducted once a year during the tactical firearms C.P.T. A minimum of fourteen rounds will be used to conduct the qualification. Qualification will be pass/fail based on predetermined criteria from the Range Instructor(s). A failure will result in a shooter having to successfully complete the course of fire two consecutive times.

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# Aircraft Accidents

## 434.1 PURPOSE AND SCOPE

The purpose of this policy is to provide Department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Management Plan and Hazardous Material Response policies.

### 434.1.1 DEFINITIONS

Definitions related to this policy include:

**Aircraft** - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

## 434.2 POLICY

It is the policy of the Palo Alto Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

## 434.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

(a) Protect persons and property.

(b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.

(c) Preserve ground scars and marks made by the aircraft.

(d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.

(e) Maintain a record of persons who enter the accident site.

(f) Consider implementation of an Incident Command System (ICS).

## 434.4 AIRBORNE AIRCRAFT IN-FLIGHT EMERGENCY

### 434.4.1 PURPOSE AND SCOPE

It is the policy of this Department to make every reasonable effort to assist a wireless 911 caller reporting an in-flight emergency on an aircraft, and to notify the appropriate authorities of the circumstances. The need to act quickly is obvious; if there is a hijacking in progress, the federal and state authorities will need to take immediate action to mitigate or eliminate the threat posed by the in-flight emergency.

Three things need to happen:

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(a) Identify the flight and direction of the aircraft;

(b) Determine the nature of the emergency;

(c) Notify the appropriate authorities

434.4.2 PROCEDURE

If the City of Palo Alto Communications Center receives a call from a passenger or crewmember onboard an airborne aircraft, reporting a hijacking or other violent potential terrorist event, the call taker needs to secure as much information as possible. Simultaneously, federal authorities must be notified, so a second dispatcher needs to immediately notify NORAD, (phone number is in CAD phone files). The dispatcher should announce themselves as a 911 dispatcher. A separate notification should be made to the Transportation Security Administrative Services (TSA) at 703-563-3240.

The call taker should attempt to determine the following information:

(a) The caller's name, seat number, cellular telephone number and if possible the home telephone number.

(b) The flight information, including the name of the airline (United, Delta, etc.), the flight number, the departure City and the destination City.

(c) The intent of the persons who have taken control of the aircraft or have interfered with the flight crew and if the suspects taken control of the cockpit?

(d) If the aircraft is being used as a bomb/missile, does the caller know the possible target?

(e) Stay on the phone with the caller as long as possible, use normal caller interrogation technique questions to keep them calm and to determine the number of suspects, descriptions, weapons, etc. Convey all known information to NORAD.

(f) Continue with secondary questioning by having the caller be very specific with what has happened or is happening, including the number of persons involved; any indication of weapons (hand held or bombs); are there any individual hostages; has there been any violence?

(g) Inform the caller that federal authorities have been notified. The dispatcher who has contacted NORAD should ask if they would like to conference into the call with the person on the aircraft. If you are going to conference the caller, let them know who they will be talking to at NORAD and why.

(h) If the call is disconnected, make all efforts to re-contact them by telephone.

(i) Keep NORAD, FAA and CALWAS informed of the current situation.

Another circumstance that would lead to using the NORAD number is the report of a suspicious airborne object. A suspicious airborne object would NOT include noise complaints about aircraft.

Below is an outline of the information NORAD would need for both circumstances:

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**Airborne Object**

Name and Phone # of RP

Location of RP

Direction the object is flying

Altitude of the object

Speed of the object

Other descriptors

**Aircraft Passenger Call**

Name and Phone # of RP

Airline the RP is on

Destination Airport

Departure Airport

Time departed

Flight Number

## 434.5 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

## 434.6 NOTIFICATIONS

When an aircraft accident is reported to this Deapartment, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

(a) Fire department

(b) Appropriate airport tower

(c) Emergency medical services (EMS)

## 434.7 CONTROLLING ACCESS AND SCENE AUTHORITY

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

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(a) FAA.

(b) Fire department, EMS or other assisting law enforcement agencies.

(c) [Medical Examiner/JOP].

(d) Air Carrier/Operators investigative teams with NTSB approval.

(e) Appropriate branch of the military, when applicable.

(f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this Department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene Department supervisor should ensure the accident is still appropriately investigated and documented.

## 434.8 DOCUMENTATION

All aircraft accidents occurring within the City of Palo Alto shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of PAPD members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

### 434.8.1 WRECKAGE

When reasonably safe, members should:

(a) Obtain the aircraft registration number (N number) and note the type of aircraft.

(b) Attempt to ascertain the number of casualties.

(c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.

1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).

(d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.

(e) Acquire copies of any recordings from security cameras that may have captured the incident.

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434.8.2 WITNESSES

Members tasked with contacting witnesses should obtain:

(a) The location of the witness at the time of his/her observation relative to the accident site.

(b) A detailed description of what was observed or heard.

(c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.

(d) The names of all persons reporting the accident, even if not yet interviewed.

(e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

## 434.9 DANGEROUS MATERIALS

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

(a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.

(b) Pressure vessels, compressed gas bottles, accumulators and tires.

(c) Fluids, batteries, flares and igniters.

(d) Evacuation chutes, ballistic parachute systems and composite materials.

## 434.10 MEDIA RELATIONS

The Public Information (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

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# Field Training Officer Program

## 436.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Palo Alto Police Department.

It is the policy of this [department/office] to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive, and professional manner.

## 436.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training, and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

### 436.2.1 SELECTION PROCESS

FTO's will be selected based on the following requirements:

(a) Desire to be an FTO

(b) Minimum of three years of patrol experience, two of which shall be with this department

(c) Demonstrated ability as a positive role model

(d) Participate and pass an internal oral interview selection process

(e) Evaluation by supervisors and current Field Training Sergeants

(f) Possess a POST Basic certificate

### 436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer's Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.

## 436.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Field Services Division Captain or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program supervisor include the following:

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(a) Assignment of trainees to FTOs

(b) Conduct FTO meetings

(c) Maintain and ensure FTO/trainee performance evaluations are completed

(d) Maintain, update, and issue the Field Training Manual to each trainee

(e) Monitor individual FTO performance

(f) Monitor overall FTO Program

(g) Maintain liaison with FTO coordinators of other agencies

(h) Maintain liaison with academy staff on recruit performance during the academy

(i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST-approved Field Training Administrator's Course within one year of appointment to this position (11 CCR 1004(c)).

## 436.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the Palo Alto Police Department who has successfully completed a POST approved Basic Academy.

## 436.5 REQUIRED TRAINING

Entry level officers shall be required to successfully complete a POST-approved Field Training Program, consisting of a minimum of 10 weeks (Penal Code § 13515.295; 11 CCR 1004; 11 CCR 1005).

The training period for a lateral officer may be modified depending on the trainee's demonstrated performance and level of experience. A lateral officer may be exempt from the Field Training Program requirement if the officer qualifies for an exemption as provided in 11 CCR 1005(a)(B).

To the extent practicable, entry level and lateral officers should be assigned to a variety of Field Training Officers, shifts, and geographical areas during their Field Training Program.

### 436.5.1 FIELD TRAINING MANUAL

Each new officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Palo Alto Police Department. The officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

The Field Training Manual will specifically cover those policies, procedures, rules, and regulations adopted by the Palo Alto Police Department.

## 436.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

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436.6.1 FIELD TRAINING OFFICER
The FTO will be responsible for the following:

(a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.

(b) Review the Daily Trainee Performance Evaluations with the trainee each day.

(c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.

(d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.

436.6.2 IMMEDIATE SUPERVISOR
The immediate supervisor shall review and approve the Daily Trainee Performance Evaluations and forward them to the Field Training Administrator.

436.6.3 FIELD TRAINING ADMINISTRATOR
The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO through his/her immediate supervisor.

436.6.4 TRAINEE
At the completion of the Field Training Program, the trainee shall submit a confidential performance evaluation on each of their FTOs and on the Field Training Program.

## 436.7 DOCUMENTATION
All documentation of the Field Training Program will be retained in the trainee's training files and will consist of the following:

(a) Daily Observation Reports (DOR)

(b) End of phase evaluations

(c) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training

(d) Once a trainee has completed the FTO Program, all documentation will be forwarded to the Personnel and Training Division.

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# Obtaining Air Support

## 438.1 PURPOSE AND SCOPE

The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

## 438.2 REQUEST FOR HELICOPTER ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

### 438.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, the Watch Commander, or his/her designee, will call the closest agency having helicopter support available. The Watch Commander on duty will apprise that agency of the specific details of the incident prompting the request.

### 438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

(a) When the helicopter is activated under existing mutual aid agreements

(b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard

(c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community

(d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard

(e) Vehicle pursuits

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.

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# Field Interviews & Photographing of Field Detainees

## 440.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting field interviews (FI) and pat-down searches, and the taking and retention of photographs of persons detained in the field but not arrested. Due to a variety of situations confronting the officer, the decision to FI or photograph a field detainee shall be left to the discretion of the involved officer based on the totality of the circumstances available to them at the time of the detention.

## 440.2 DEFINITIONS

**Detention** - Occurs when an officer intentionally, through words, actions or physical force causes an individual to reasonably believe he/she is being required to restrict his/her movement. Detentions also occur when an officer actually restrains a person's freedom of movement.

**Consensual Encounter** - Occurs when an officer contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

**Field Interview** - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions.

**Field Photographs** - Field photographs are defined as posed photographs taken of a person during a contact, detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-Down Search** - This type of search is used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

**Reasonable Suspicion** - Occurs when, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

## 440.3 FIELD INTERVIEWS

Officers may stop individuals for the purpose of conducting an FI where reasonable suspicion is present. In justifying the stop, the officer should be able to point to specific facts which, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

(a) The appearance or demeanor of an individual suggests that he/she is part of a criminal enterprise or is engaged in a criminal act.

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(b) The actions of the suspect suggest that he/she is engaged in a criminal activity.

(c) The hour of day or night is inappropriate for the suspect's presence in the area.

(d) The suspect's presence in the particular area is suspicious.

(e) The suspect is carrying a suspicious object.

(f) The suspect's clothing bulges in a manner that suggests he/she is carrying a weapon.

(g) The suspect is located in proximate time and place to an alleged crime.

(h) The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.

### 440.3.1 INITIATING A FIELD INTERVIEW

An officer may initiate the stop of a person when there is articulable, reasonable suspicion to do so. A person however, should not be detained longer than is reasonably necessary to resolve the officer's suspicions.

Nothing in this policy is intended to discourage consensual contacts. Frequent and random casual contacts with consenting individuals are encouraged by the Palo Alto Police Department to strengthen our community involvement, community awareness and problem identification.

### 440.3.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigators to utilize available personnel for the following:

(a) Identify all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.

2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel.

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor,

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consent should be obtained from the parent or guardian, if available, prior to transportation.

440.3.3 FIELD INTERVIEW CARDS

It is the policy of the Palo Alto Police Department to record all information relevant to the identity of suspicious persons who have been interviewed and released by an officer in the field. The detention and recording of personal information of those persons deemed "suspicious" shall take place only when due consideration is given to legal statutes, case law, and individual rights.

A Field Interview Card (F.I. Card) shall be completed when an officer is not certain that the suspicious actions of the person being interviewed are legitimate. The following procedures shall be adhered to in the completion, review and retention of F.I. cards:

All completed F.I. cards shall be reviewed and, if acceptable, signed by a supervisor. Those field interview cards deemed to be unacceptable shall be destroyed. Approved F.I. cards shall be forwarded to the ISD Office Specialist for entry into the Department computer system.

F.I. cards shall be filed for a period of six months. All F.I. cards that are older than six months shall be destroyed by the ISD Office Specialist. The ISD Office Specialist shall also purge all information from the Department computer that is related to those F.I. cards which have been destroyed.

## 440.4 PAT-DOWN SEARCHES

A pat-down search of a detained subject may be conducted whenever an officer reasonably believes that the person may possess an object that can be utilized as an offensive weapon or whenever the officer has a reasonable fear for his/her own safety or the safety of others. Circumstances that may establish justification for performing a pat-down search include, but are not limited to the following:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.

(b) Where more than one suspect must be handled by a single officer.

(c) The hour of the day and the location or neighborhood where the stop takes place.

(d) Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.

(e) The appearance and demeanor of the suspect.

(f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

(g) The age and gender of the suspect.

Whenever possible, pat-down searches should be performed by officers of the same gender.

## 440.5 FIELD PHOTOGRAPHS

Before photographing any field detainee, the officer shall carefully consider, among other things, the factors listed below.

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### 440.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent to be photographed.

### 440.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. Mere knowledge or suspicion of gang membership or affiliation is not a sufficient justification for taking a photograph without consent. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

## 440.6 SUPERVISOR RESPONSIBILITY

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph. Access to field photographs shall be strictly limited to law enforcement purposes.

## 440.7 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be downloaded into the Digital Imaging Database. See Policy Manual § 711 for procedures.

### 440.7.1 PURGING THE FIELD PHOTO FILE

The Records Manager will be responsible for ensuring that photographs maintained by the Technical Services Division that are more than one year old and no longer serve a law enforcement purpose are periodically purged and destroyed. Photographs that continue to serve a legitimate law enforcement purpose may be retained longer than one year provided that a notation of that fact is added to the file for each additional year that they are retained. Access to the FI photo file shall be strictly limited to law enforcement purposes.

A photograph need not be purged but may be retained as an updated photograph in a prior booking file if the person depicted in the photograph has been booked at the Palo Alto Police Department and the booking file remains in the Technical Services Division.

## 440.8 PHOTO REVIEW POLICY

Any person who has been the subject of a field photograph or an FI by this agency during any contact other than an arrest may file a written request within 30 days of the contact requesting a review of the status of the photograph/FI. The request shall be directed to the office of the Chief of Police who will ensure that the status of the photograph or FI is properly reviewed according to

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this policy as described below. Upon a verbal request, the Department will send a request form to the requesting party along with a copy of this policy.

### 440.8.1 REVIEW PROCESS

Upon receipt of such a written request, the Chief of Police or his or her designee will permit the individual to appear in person (any minor must be accompanied by their parent or legal guardian) for a review of the status of the photograph/FI.

Such a meeting will generally be scheduled during regular business hours within 30 days of the receipt of the written request. An extension of the 30-day limit may be made either upon the mutual convenience of the parties or if, at the discretion of the Chief of Police, there appears to be an ongoing legitimate law enforcement interest which warrants a delay. If the delay could jeopardize an ongoing investigation, nothing in this policy shall require the Chief of Police to disclose the reason(s) for the delay.

A meeting for the review of the status of any non-arrest photograph/FI is not intended to be a formal hearing, but simply an informal opportunity for the individual to meet with the Chief of Police or his/her designee to discuss the matter.

After carefully considering the information available, the Chief of Police or designee will determine, generally within 30 days of the original meeting, whether the photograph/FI was obtained in accordance with existing law and Palo Alto Police Department policy and, even if properly obtained, then whether there is any ongoing legitimate law enforcement interest in retaining the photograph/FI.

If the Chief of Police or his/her designee determines that the photograph/FI was obtained in accordance with existing law and department policy and that there is an ongoing legitimate law enforcement interest in retaining the non-arrest photograph, the photograph/FI shall be retained according to this policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest photograph no longer exists or that it was obtained in violation of existing law or Palo Alto Police Department policy, the original photograph will be destroyed or returned to the person photographed, if requested. All other associated reports or documents, however, will be retained according to department policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest FI no longer exists or that the original F/I was not obtained in accordance with established law or Palo Alto Police Department policy, the original FI may only be destroyed upon the execution of a full and complete waiver of liability by the individual (and guardian if a minor) arising out of that field contact.

If the Chief of Police or his/her designee determines that any involved Palo Alto Police Department personnel violated existing law or department policy, the Chief of Police or designee shall initiate a separate internal investigation which may result in additional training, discipline or other appropriate action for the involved employees.

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*Field Interviews & Photographing of Field Detainees*

The person photographed/FI'd will be informed in writing within 30 days of the Chief of Police's determination whether or not the photograph/FI will be retained. This does not entitle any person to any discovery or access to any law enforcement records not otherwise authorized by law.

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# Criminal Organizations

## 442.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Palo Alto Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

### 442.1.1 DEFINITIONS

Definitions related to this policy include:

**Criminal intelligence system** - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

## 442.2 POLICY

The Palo Alto Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this [department/office] to collect and share relevant information while respecting the privacy and legal rights of the public.

## 442.3 CRIMINAL INTELLIGENCE SYSTEMS

No [department/office] member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for [department/office] use.

Any criminal intelligence system approved for [department/office] use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for [department/office] use. The supervisor or the authorized designee should ensure the following:

(a) Members using any such system are appropriately selected and trained.

(b) Use of every criminal intelligence system is appropriately reviewed and audited.

(c) Any system security issues are reasonably addressed.

### 442.3.1 SYSTEM ENTRIES

It is the designated supervisor’s responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this [department/office], such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Technical Services Division. Any supporting documentation for an entry shall be retained by the Technical

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Services Division in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Technical Services Division are appropriately marked as intelligence information. The Records Manager may not purge such documents without the approval of the designated supervisor.

### 442.3.2 GANG DATABASES

The Chief of Police may approve participation by the gang unit in a shared criminal gang intelligence database, such as CALGANG®. Members must obtain the requisite training before accessing any such database.

It is the gang unit supervisor's responsibility to determine whether any report or FI contains information that would qualify for entry into the database. Prior to designating any person as a suspected gang member, associate or affiliate in a shared gang database; or submitting a document to the Attorney General's office for the purpose of designating a person in a shared gang database; or otherwise identifying the person in a shared gang database, the gang unit supervisor shall provide written notice to the person and, if the person is under the age of 18, to his/her parent or guardian of the designation and the basis for the designation, unless providing that notification would compromise an active criminal investigation or compromise the health or safety of a minor. Notice shall also describe the process to contest the designation (Penal Code § 186.34).

The person, an attorney working on his/her behalf or his/her parent or guardian (if the person is under 18 years of age) may request, in writing, information as to whether the person is designated as a suspected gang member, associate or affiliate in a shared gang database accessible by the [department/office], the basis for that designation and the name of the agency that made the designation. The [department/office] shall respond to a valid request in writing within 30 days, and shall provide the information requested unless doing so would compromise an active investigation or compromise the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

The person, or his/her parent or guardian if the person is under 18 years of age, may contest the designation by submitting written documentation which shall be reviewed by the gang unit supervisor. If it is determined that the person is not a suspected gang member, associate or affiliate, the person shall be removed from the database. The person and the parent or guardian shall be provided written verification of the [department/office]'s decision within 30 days of receipt of the written documentation contesting the designation and shall include the reason for a denial when applicable (Penal Code § 186.34).

The gang unit supervisor should forward reports or FIs to the Technical Services Division after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

It is the responsibility of the Technical Services Division supervisor to retain reports and FIs in compliance with the database rules and any applicable end user agreement.

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Records contained in a shared gang database shall not be disclosed for employment or military screening purposes, and shall not be disclosed for the purpose of enforcing federal immigration law unless required by state or federal statute or regulation (Penal Code § 186.36).

#### 442.3.3 REPORT TO THE CALIFORNIA DEPARTMENT OF JUSTICE

The Investigative Services Division Captain or the authorized designee shall ensure that the annual report of information submitted to a shared gang database as required by Penal Code § 186.34 is submitted to the California Department of Justice.

## 442.4 TEMPORARY INFORMATION FILE

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the [department/office]-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

#### 442.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

(a) Must only be included upon documented authorization of the responsible [department/office] supervisor.

(b) Should not be originals that would ordinarily be retained by the Technical Services Division or Property and Evidence Section, but should be copies of, or references to, retained documents such as copies of reports, FI forms, the Communications Center records or booking forms.

(c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.

(d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

#### 442.4.2 FILE REVIEW AND PURGING

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged.

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

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### 442.5 INFORMATION RECOGNITION

[Department/Office] members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

(a) Gang indicia associated with a person or residence.

(b) Information related to a drug-trafficking operation.

(c) Vandalism indicating an animus for a particular group.

(d) Information related to an illegal gambling operation.

[Department/Office] supervisors who utilize an authorized criminal intelligence system should work with the Personnel and Training Lieutenant to train members to identify information that may be particularly relevant for inclusion.

### 442.6 RELEASE OF INFORMATION

[Department/Office] members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to [department/office] members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

### 442.7 CRIMINAL STREET GANGS

The Investigative Services supervisor should ensure that there are an appropriate number of [department/office] members who can:

(a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with:

1. Any organization, associate or group of three or more persons that meets the definition of a criminal street gang under Penal Code § 186.22(f).

2. Identification of a person as a criminal street gang member and criminal street gang-related crimes.

3. The California Street Terrorism Enforcement and Prevention Act (Penal Code § 186.21 et seq.), associated crimes and what defines a criminal street gang (Penal Code § 186.22).

(b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.

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(c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

## 442.8 TRAINING

The Personnel and Training Lieutenant should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

(a) The protection of civil liberties.

(b) Participation in a multiagency criminal intelligence system.

(c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.

(d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.

(e) The review and purging of temporary information files.

## 442.9 POLICY ISSUE DATE

Updated: 12-8-16

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# Watch Commanders

## 444.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Lieutenant heads each watch.

## 444.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Lieutenant is unavailable for duty as Watch Commander, a Sergeant shall be designated as acting Watch Commander. In rare occasions an Agent may be assigned as a Watch Commander. This shall be done with the approval of the Field Services Division Captain.

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# Field-Based Video Policy

## 446.1 PURPOSE AND SCOPE

The Palo Alto Police Department has equipped officers with body-worn cameras to work in conjunction with the in-car camera recording system in patrol vehicles to provide a record of events and assist officers in the performance of their duties. The body-worn cameras and the in-car camera system will work as one integrated field-based video system that captures the same event and automatically links it to the Department's evidence library. The body-worn cameras may also be independently deployed for various non-patrol related assignments or when a police vehicle is not available to use as an integrated field-based video solution. This policy provides guidance on the use of these systems.

### 446.1.1 DEFINITIONS

Definitions related to this policy include:

**Activate -** Any process that causes the body-worn camera or the in-car camera recording system to transmit or store video or audio data in an active mode.

**Field-based video –** The recorded audio, images, and media collected from the body-worn camera and the in-car camera systems.

**Body-worn camera –** A wearable camera acting as a digital video recording system that captures, processes, and stores video and audio evidence that can be uploaded to an evidence library for evidence management. The body-worn camera is a component of the Department's field-based video system.

**In-car camera system and Mobile Audio/Video (MAV) system-** Synonymous terms which refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at minimum, a camera, microphone, recorder and monitor. The in-car camera system is a component of the Department's field-based video system.

**Field-based video technician -** Personnel certified or trained in the operational use and repair of the body-worn camera or MAV system, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

**Recorded media -** Audio-video signals recorded or digitally stored on a storage medium or portable media.

## 446.2 POLICY

It is the policy of the Palo Alto Police Department to use the body-worn camera in conjunction with the in-car camera system to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently.

## 446.3 OFFICER RESPONSIBILITIES

The body-worn camera and the in-car camera system are different components of the field-based video system and each must be logged onto separately in order for the media from an event to

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be linked to the Department's evidence library. The use of these systems is mandatory for sworn Field Services Division personnel as outlined in this policy. The body-worn camera should be worn in a manner such that it is not obstructed by clothing or other duty equipment.

446.3.1 REQUIRED PROCEDURES FOR LOGGING ON AND SYNCING THE FIELD-BASED VIDEO SYSTEMS

Body-worn camera:

(a) Users will have a body-worn camera unit issued to them by the field-based video technician.

(b) At the beginning of the shift before handling any calls fore service, the user will verify that the recording andstop functions are working properly. To initiate a video recording using the body-worn camera, the officer must press the "Start/Stop Record" button on the front of the body-worn camera unit. When the Start/Stop Record button is pressed a red LED will be illuminated on the device to show active recording status. To stop the recording, the user must press the same button (Start/Stop Record button) and hold for 3 seconds.

(c) The recording will need to be classified by a category selection in the online portal. The recordings are downloaded when the camera is docked in the docking stations. The available event categories mimic those found within the in-car video system.

(d) Users will not be able to review audio/video from the body-worn camera unit until the body-worn camera is downloaded in the department docking stations.

(e)

(f) The supervisor will ensure Technical Services Division staff is notified of any system malfunction that requires repair or maintenance, the field-based technician will maintain spare body-worn cameras and will issue replacements as necessary.

(g) Body-worn camera recordings containing arrests, assaults, physical or verbal confrontations, vehicle pursuits, vehicle searches in which contraband is recovered, driving while intoxicated or under the influence arrests, or any prisoner transport shall be treated as evidence and held for use in criminal prosecution.

In-car camera system:

(a) When using a department assigned vehicle equipped with the in-car camera system, each user shall sign onto the in-car camera system. The user will sign into the application on the MDC with their credentials.

(b) Required procedures include checking the power source, checking connections to the recording equipment AND checking that the system is recording both audio and visual information (including a remote activation test).

(c) Any identified malfunction of the in-car camera system shall be reported immediately to a supervisor. If a vehicle is kept in service without an operational in-car camera system, a notation shall be made to Dispatch via radio transmission.

(d) The supervisor will ensure that Technical Services Division staff is notified of any system malfunction that requires repair or maintenance.

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(e) The user may view in-car camera recordings in the field during their shift in accordance with section 446.5 of this policy.

(f) In cases where the user desires to have a particular recording flagged with a case number, after it has been uploaded, the user shall login into the desktop application andmark the video recording for retention. If the video is not able to be flagged, the user will notify the Technical Services Division staff requesting the video to be marked for retention.

(g) In-car camera recordings containing arrests, assaults, physical or verbal confrontations, vehicle pursuits, vehicle searches in which contraband is recovered, driving while intoxicated or under the influence arrests, or any prisoner transport shall be treated as evidence and held for use in criminal prosecution.

Users shall utilize these procedures for signing onto the in-car camera system whether or not they are utilizing the body-worn camera unit.

Users will ensure both systems are functioning properlyby initiating a test recording on the in-car camera system and confimring the body-worn camera unit activates.

### 446.4 ACTIVATION OF THE FIELD-BASED VIDEO SYSTEMS

(a) The in-car camera system remains on until turned off manually while the ignition is on. Turning off the ignition will initiate the system's shutdown 60-minute timer.When a longer recording is desired, the ignition must be turned on. The body-worn cameras are on from the time the device is checked out, maintaining a 30 second recording loop, unless manually turned off by the user.

(b) Events are recorded on the body-worn camera and the in-car camera system automatically under the following circumstances:

- Manual activation of the body-worn camera by the user.
- Manual activation of the in-car system from the vehicle's console.
- The patrol vehicle's forward-facing emergency lights (position #2 or #3) orsiren are activated.
- The rear door of a K9 vehicle is opened.
- The rear door of a patrol vehicle is opened.
- The crash indicator is activated.
- The patrol vehicle attains a speed of 80 MPH.

(a) Unless otherwise required, the body-worn camera unit will act as the field-based video system's microphone.

(b) The body-worn camera and in-car camera system have pre-event recording capabilities and will record events prior to manual or automatic activation into a memory buffer(30 seconds of video only, noaudio). Pre-event recording is saved upon activation of either of the systems.

(c) The in-car microphone is automatically activated when a recording is activated.

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### 446.4.1 REQUIRED ACTIVATION OF THE FIELD-BASED VIDEO SYSTEMS

This policy is not intended to describe every possible situation in which the body-worn camera and the in-car camera system may be used, although there are many situations where their use is appropriate. The safety of officers and members of the public is the highest priority, and the Department acknowledges there may be situations in which the operation of the field-based video system is impractical or may be an impediment to public and officer safety. Additionally, the Department recognizes human performance limitations during particularly stressful, critical situations. Officers are not required to advise or obtain consent to utilize the field-based video system from a private person when in a public place or in a location where there is an expectation of privacy, but the officer is lawfully present.

Officers shall make every reasonable effort to activate the field-based video system during all law enforcement contacts. Law enforcement contacts may include, but are not limited to, any enforcement or investigative activity, vehicle or pedestrian stops, consensual encounters, citizen flag downs, searches, taking or attempting to take a person into custody, use of force incidents, citation issuance, and any dispatched or self-initiated call for service. An officer may also activate the field-based video system anytime the officer believes it would be appropriate or valuable to document an incident.

In instances when the field-based video system is not automatically activated, officers shall activate their body-worn camera and/or the in-car camera system prior to arriving to a call for service, or as soon as possible if the officer has self-initiated the call, to preclude arriving on scene and being unable to activate the system.

### 446.4.2 CESSATION OF RECORDING

Once activated, the body-worn camera and in-car camera system should remain on until the incident no longer holds evidentiary or investigative value. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Once the user determines an incident no longer holds evidentiary or investigative value, the officer shall make a verbal announcement indicating the incident has concluded prior to deactivating the body-worn camera and/or the in-car camera system.

Users shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

Users will also have discretion to stop a recording to protect the anonymity of an informant, confidential source, or undercover officer or if it becomes necessary to discuss operational or tactical issues of a confidential nature occurring in the field with a supervisor or another officer. Under these circumstances, the user will verbally note the reason for terminating the recording prior to stopping the recording. If the incident still holds evidentiary or investigative value once the user has concluded a confidential conversation as described above, the user will re-activate the field-based video system until the recording no longer hold evidentiary or investigative value.

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If the in-car camera system is activated, it must be stopped from the vehicle's console. Once the recording is stopped, the user is required to select the appropriate classification for the event in the MDC application. If the incident or case number is known at this time, the officer is required to enter that number. As needed throughout the shift, but no later than the end of the shift, the user will dock the body-worn camera so the files can be downloaded. The user will login into the desktop application and mark videos for custodial arrest, use of force, potential complaints, or as directed by a supervisor for retention with the incident or case number. Videos should ideally be marked at the end of each shift, but no later than the end of the employee's scheduled work week.

### 446.4.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of the body-worn camera and in-car camera system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this department may surreptitiously record a conversation of any other member of this department.

### 446.4.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if officers with non-functioning body-worn cameras or vehicles with non-functioning in-car camera systems should go into service or switch to an alternate vehicle or body-worn camera. If the non-functioning cameras are placed into service, the appropriate documentation should be made, including notification of the Communications Center and the field-based video technician

At reasonable intervals, supervisors should validate that:

(a) Beginning and end-of-shift recording procedures are followed.

(b) Videos are marked as required.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, field-based video technician or crime scene investigator properly retrieves the recorded media. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

### 446.4.5 REQUIRED ACTIVATION FOR COMMUNITY SERVICE OFFICERS

The following are incidents that would require a CSO to activate their BWC:

- Attached to a call for service.
- Any interaction with a member of the public that would be considered a hostile interaction or an interaction that could result in a citizen complaint.
- Any interaction with the public when the CSO is explaining the reasoning for the issuance of a citation.
- Any situation that the CSO thinks a recording should be made.

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The issuing of parking citations need not be recorded unless it meets one of the above situations.

### 446.5 REVIEW OF FIELD-BASED RECORDINGS

All recording media, recorded images and audio recordings are the property of the Department. Unauthorized review and/or dissemination are strictly prohibited.

To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the department field-based video technician or forensic media staff. A copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media. The original media is stored and maintained on the Department's CJIS compliant server.

Recordings may be reviewed in any of the following situations:

(a) By the user in preparation of a written report or a follow-up investigation

(b) By a supervisor or manager investigating a specific act of officer or CSO conduct or to mitigate a citizen complaint or inquiry

  i. In completing an administrative report, a supervisor shall view all Field-Based Video necessary to the scope of the inquiry. At minimum, this Field Based Video review should include:

    - For officers or CSOs involved in the conduct being reviewed (e.g., citizen complaint, use of force, pursuit), footage from the beginning of the call for service thru the conclusion of the conduct being reviewed;
    - For officers or CSOs on-scene but not involved in the conduct being reviewed, any footage of the conduct being reviewed;

  ii. Additional Field Based Video may be viewed as necessary to the scope of the inquiry, or if additional conduct has been identified as requiring inquiry.

  iii. The supervisor's report shall note (by timestamp) the relevant segment(s) reviewed pursuant to this policy.

  iv. The investigative file shall contain only those relevant segments reviewed by the supervisor; however, all related Field Based Video shall be retained electronically pursuant to the Department's retention schedule.

(c) By a supervisor or manager for purposes of improving officer performance based on an articulable training issue.

(d) By a Department employee after approval of a manager who is participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation

(e) By an officer or CSO who is captured on or referenced in the video or audio data and reviews and uses such data for any purpose relating to his/her employment or court purposes

(f) By authorized personnel (e.g. District Attorney, supervisor, manager) during discovery/court process. Recordings must be accessed through the proper process (Penal Code 1054.5 - discovery or court order)

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(g) Recordings may be shown for training purposes. If an involved officer or CSO objects to showing a recording, his/her objection will be submitted to the Chief of Police to determine if the training value outweighs the officer's objection for not showing the recording. Recordings shown for training purposes will be presented in a fair and unbiased manner.

(h) In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee or member of the public.

In the event of an Officer-Involved Incident as defined in the Santa Clara County Chiefs' Officer-Involved Incident Guidelines the initial interview of an Involved Officer should occur before the officer has reviewed any audio/video recordings of the incident. An Involved Officer will have an opportunity to review recordings after the initial statement has been taken and after having been admonished per the Officer-Involved Incident Guidelines.

When recordings are administratively reviewed, minor policy infractions, not criminal in nature, discovered as a consequence of an unrelated viewing of the recording shall be addressed as a training opportunity and will not be utilized to initiate disciplinary action unless the policy infraction at issue has been documented as a reoccurring performance issue for the officer in question.

The field-based video systems are configured with high quality audio and have the capability to capture a significant amount of video and audio when in operation, however, the systems are limited in the scope of their audio and visual capabilities. An individual officer's experience may not include everything captured by the system. Similarly, the field based video systems may not capture everything by the officer.

## 446.6 DOCUMENTING FIELD-BASED VIDEO USE

(a) If any incident is recorded with either the body-worn camera or the in-car camera system, the existence of that recording shall be documented in the user's report.

(b)

(c) In the event of accidental recording, the user shall submit a request via e-mail to their supervisor with an explanation of the video to be deleted. The supervisor will then approve the request and submit it via e-mail to the field-based video technician for the deletion of the accidentally recorded data.

## 446.7 RECORDING MEDIA STORAGE AND INTEGRITY

All field-based recordings will be retained in accordance with the established records retention schedule. (Government Code § 34090.6).

Only the field-based video technician or authorized designee may erase video or reissue media that has been previously recorded. Users shall not erase, alter, reuse, modify or tamper with video from any of the field-based video recording systems, including, but not limited to the in-car camera system and the body-worn camera unit.

### 446.7.1 COPIES OF ORIGINAL RECORDING MEDIA

A copy of the original recording media will be made for use as authorized in this policy.

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446.7.2 FIELD-BASED RECORDING AS EVIDENCE

Users who reasonably believe that a field-based video recording is likely to contain evidence relevant to a criminal offense, potential claim against the user or against the Palo Alto Police Department should indicate this in an appropriate report. Users shall ensure relevant recordings are preserved.

## 446.8 SYSTEM OPERATIONAL STANDARDS

(a) The in-car camera system vehicle installations should be based on officer safety requirements and the vehicle and device manufacturer's recommendations.

(b) The body-worn camera and the in-car camera system shall be configured to record for 30 seconds prior to an event.

(c) The body-worn camera and the in-car camera system shall not be configured to record audio data occurring prior to activation.

## 446.9 FIELD-BASED VIDEO CUSTODIAN RESPONSIBILITIES

(a) The Technical Services Division (TSD) has overall responsibility for the field-based video system and shall serve as custodian of these records

(b) All Police field-based video recordings, excepting test recordings or accidental activations, shall be retained in accordance with California Government Code (CGC) §34090 and CGC §34090.6 for a period of not less than one year.

(c) Release of field-based video recordings shall be conducted in accordance with Penal Code §1054.5 (discovery requests for criminal prosecution), CGC §6250 (California Public Records Act) and in accordance with Policy Manual §810 (Release of Records and Information).

(d) All retrieved field-based video recordings will be uploaded into the field-based video server within the same day as the recording unless hindered by equipment or network malfunction or availability.

(e)

(f) All routine requests by authorized department personnel for online access to field-based video recordings for court preparation or other official business, outside of the normal online access period will be handled within 2-3 business days of the request.

(g) If an emergency need to access these recordings is required, the Technical Services Division on-call Technician can be contacted for immediate restoration and access.

(h) The field-based video custodian or their designee shall be responsible for the retrieval, storage, backup and duplication of all field-based video recordings in addition to the ongoing maintenance of the systems and association components.

(i) All field-based video recordings will be retained in accordance with the established records retention schedule (Government Code 34090.6).

(j) All field-based video recordings will be stored on a CJIS compliant server.

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### 446.10 TRAINING

All members who are authorized to use the body-worn camera or the in-car camera system shall successfully complete an approved training prior to its use.

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# Mobile Data Computer Use

## 448.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Data Computer (MDC) system in order to ensure appropriate access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between department members and the Communications Center.

## 448.2 POLICY

Palo Alto Police Department members using the MDC shall comply with all appropriate federal and state rules and regulations and shall use the MDC in a professional manner, in accordance with this policy.

## 448.3 RESTRICTED ACCESS AND USE

MDC use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDC system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDC by another member to their supervisors or Watch Commanders.

Use of the MDC system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks and communications that are directly related to the business, administration or practices of the Department. In the event that a member has questions about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

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

It is a violation of this policy to transmit a message or access a law enforcement database under another member’s name or to use the password of another member to log in to the MDC system unless directed to do so by a supervisor. Members are required to log off the MDC or secure the MDC when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

### 448.3.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should generally be limited to times when the vehicle is stopped. When the vehicle is in motion, the operator should only attempt to read messages that are likely to contain information that is required for immediate enforcement, investigative or safety needs.

Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

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## 448.4 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

## 448.5 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the Watch Commander or other department-established protocol, all calls for service assigned by a dispatchershould be communicated by voice over the police radio and electronically via the MDC unless security or confidentiality prevents such broadcasting.

MDC and voice transmissions are used to document the member's daily activity. To ensure accuracy:

(a) All contacts or activity shall be documented at the time of the contact.

(b) Whenever the activity or contact is initiated by voice, it should be documented by a dispatcher.

(c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDC.

### 448.5.1 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the police radio or through the MDC system.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Other changes in status can be made on the MDC.

### 448.5.2 EMERGENCY ACTIVATION

If there is an emergency activation and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a field supervisor and the Watch Commander are notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

## 448.6 EQUIPMENT CONSIDERATIONS

### 448.6.1 MALFUNCTIONING MDC

Whenever possible, members will not use vehicles with malfunctioning MDCs. Whenever members must drive a vehicle in which the MDC is not working, they shall notify the Communications Center. It shall be the responsibility of the [dispatcher to document all information that will then be transmitted verbally over the police radio.

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448.6.2 BOMB CALLS
When investigating reports of possible bombs, members should not communicate on their MDCs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDC could cause some devices to detonate.

## 448.7 POLICY ISSUE DATE
Updated: 12-8-16

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# Use of Audio Recorders

## 450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties.

This policy does not apply to surreptitious interception of electronic communications for lawful authorized investigative purposes or to mobile audio video recordings (see the Mobile Audio Video Policy).

## 450.2 POLICY

The Palo Alto Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

Santa Clara County Protocols Section 13 - Recording of Violent Suspect Statement Protocol shall be utilized as a guideline during the custodial interrogation of a violent felony suspect. Personnel are required to read and follow Santa Clara County Protocols, Section 13 - Recording of Violent Suspect Statement Protocol.

## 450.3 PRIVACY

All recordings made by personnel acting in their official capacity as members of this department shall remain the property of the Department and should not be considered private, regardless of whether those recordings were made with department-issued or personally owned recorders.

## 450.4 MEMBER RESPONSIBILITIES

The Digital Audio Recorder (DAR) is turned on and off manually. Personnel using DAR equipment must be familiar with the activaton and operation of the device in order to comply with the obligations of this section.

Penal Code § 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential, however Penal Code § 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

(a) No member of this department may surreptitiously record a conversation of any other member of this department without the expressed knowledge and consent of all parties. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).

(b) Any member of this department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation.

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1. For the purpose of this policy, any officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.
2. For the purpose of this policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted audio recorder will have knowledge that such a contact is being recorded.

(c) Members of the Department are encouraged to activate their recorders at any time that the officer reasonably believes that a recording of an on-duty contact with a member of the public may be of future benefit.

1. At no time should an officer jeopardize his/her safety in order to activate a recorder or change the recording media.
2. Officers are prohibited from utilizing department recorders and recording media for personal use.
3. Since Penal Code §633 only allows officers who are conducting a criminal investigation to surreptitiously records subjects, officers who are audio recording subjects outside of any potential criminal investigation and in which the subject has an expectation of privacy, the officer shall inform the individual of his/her intent to record the conversation.

Once the DAR is activated, it shall remain on and shall not be turned off until the incident has concluded. For purposes of this section, conclusion of an incident has occurred when all citations have been issued, all arrests have been made, all arrestees have been removed from the scene or situation, and victims, witnesses, etc have been interviewed. Recording may cease if an officer is simply waiting for a tow truck to arrive or other similar situations.

(d) Any incident that was recorded by DAR shall be documented in the officer's report. If a citation was issued or a field interview card was completed, the officer shall note on the back of the records copy that the incident was recorded.

## 450.5 ACTIVATION OF THE AUDIO RECORDER

Members should activate the recorder at any time the member reasonably believes that a recording of an on-duty contact may be useful. Once started, recordings should continue without interruption until the contact ends, if feasible.

At no time is a member expected to jeopardize his/her safety in order to activate a recorder or change the recording media. However, the recorder should be activated in required situations as soon as practicable.

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450.5.1 SURREPTITIOUS USE OF THE AUDIO RECORDER

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order or unless lawfully authorized by the Chief of Police or the authorized designee.

## 450.6 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment or ridicule.

Any member who may have questions regarding the application of this policy is encouraged to seek clarification from supervisory personnel.

## 450.7 RETENTION OF RECORDINGS

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and download the file in accordance with the Computers and Digital Evidence Policy and document the existence of the recording in the related case report.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

Members should upload the file, in accordance with current procedure for storing digital files, at the end of their shift and any time the storage capacity is nearing its limit.

## 450.8 RELEASE OF RECORDINGS

Recordings made using portable recording devices pursuant to this policy are department records and may only be released as provided in the Release of Records and Information Policy or for other authorized legitimate department business purposes.

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### 450.9 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource. However, members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct, reports of meritorious conduct or whenever such recordings would be beneficial in improving the officer's performance.

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) In compliance with a public records request, if permitted, and in accordance with the Release of Records and Information Policy.

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# Medical Marijuana

## 452.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this [department/office] with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

### 452.1.1 DEFINITIONS

Definitions related to this policy include:

**Cardholder** - A person issued a current identification card.

**Compassionate Use Act (CUA)** (Health and Safety Code § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

**Identification card** - A valid document issued by the California Department of Public Health to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

**Medical marijuana** - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

**Medical Marijuana Program (MMP)** (Health and Safety Code § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

**Patient** - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

**Primary caregiver** - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

**Statutory amount** - No more than 8 ounces of dried, mature, processed female marijuana flowers ("bud") or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered) (Health and Safety Code § 11362.77).

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## 452.2 POLICY

It is the policy of the Palo Alto Police Department to prioritize resources to forgo making arrests related to marijuana that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

California's medical marijuana laws are intended to provide protection to those who are seriously ill and whose health would benefit from the use of medical marijuana.

However, California medical marijuana laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of marijuana. The Palo Alto Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

## 452.3 INVESTIGATION

Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

(a) Investigations when no person makes a medicinal claim.

(b) Investigations when a medicinal claim is made by a cardholder.

(c) Investigations when a medicinal claim is made by a non-cardholder.

### 452.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM

In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation if the amount is greater than permitted for personal use under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1; Health and Safety Code § 11362.2). A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

### 452.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER

A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is probable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

(a) The information contained in the card is false or falsified.

(b) The card has been obtained or used by means of fraud.

(c) The person is otherwise in violation of the provisions of the MMP.

(d) The person possesses marijuana but not for personal medical purposes.

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Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient's medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

### 452.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER

No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the officer reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient's current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Officers are not obligated to accept a person's claim of having a physician's recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person's medical-use claim.

Officers should review any available written documentation for validity and whether it contains the recommending physician's name, telephone number, address and medical license number for verification.

Officers should generally accept verified recommendations by a physician that statutory amounts do not meet the patient's needs (Health and Safety Code § 11362.77).

### 452.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

(a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:

1. The suspect has been identified and can be easily located at a later time.
2. The case would benefit from review by a person with expertise in medical marijuana investigations.
3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.

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4. Other relevant factors, such as available [department/office] resources and time constraints prohibit making an immediate arrest.

(b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient's needs:

1. The amount of marijuana recommended by a medical professional to be ingested.
2. The quality of the marijuana.
3. The method of ingestion (e.g., smoking, eating, nebulizer).
4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
5. Whether the marijuana is being cultivated indoors or outdoors.

(c) Before proceeding with enforcement related to collective gardens or dispensaries, officers should consider conferring with a supervisor, an applicable state regulatory agency or other member with special knowledge in this area, and/or appropriate legal counsel (Business and Professions Code § 26010; Business and Professions Code § 26060). Licensing, zoning, and other related issues can be complex. Patients, primary caregivers, and cardholders who collectively or cooperatively cultivate marijuana for medical purposes may be licensed or may have a defense in certain circumstances (Business and Professions Code § 26032; Business and Professions Code § 26033).

(d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

### 452.3.5 EXCEPTIONS

This policy does not apply to, and officers should consider taking enforcement action for the following:

(a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).

(b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).

(c) Smoking marijuana (Health and Safety Code § 11362.79):

1. In any place where smoking is prohibited by law.
2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
3. On a school bus.
4. While in a motor vehicle that is being operated.
5. While operating a boat.

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(d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

452.3.6 INVESTIGATIONS INVOLVING A STATE LICENSEE

No person issued a state license under the Business and Professions Code shall be arrested or cited for cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution or sale of medical cannabis or a medical cannabis product related to qualifying patients and primary caregivers when conducted lawfully. Whether conduct is lawful may involve questions of license classifications, local ordinances, specific requirements of the Business and Professions Code and adopted regulations. Officers should consider conferring with a supervisor, the applicable state agency or other member with special knowledge in this area and/or appropriate legal counsel before taking enforcement action against a licensee or an employee or agent (Business and Professions Code § 26032).

## 452.4 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

## 452.5 PROPERTY AND EVIDENCE SECTION SUPERVISOR RESPONSIBILITIES

The Property and Evidence Section supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Property and Evidence Section supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property and Evidence Section supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Property and Evidence Section supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Investigative Services supervisor.

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# Bicycle Patrol Program

## 454.1 PURPOSE AND SCOPE

The purpose of this policy is to establish working guidelines for the implementation, operation and maintenance of a uniformed bicycle patrol program. The goals of the Department Bicycle Patrol Program are to:

(a) Enhance prevention of crime and apprehension of criminals in the City of Palo Alto;

(b) Improve one-on-one citizen contact particularly in business districts;

(c) Conduct bicycle safety programs in the City of Palo Alto;

(d) Assist with crowd control at special events or functions within the City.

## 454.2 POLICY

Patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control, or special events. The use of the patrol bicycle will emphasize their mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Bicycle Patrol Unit supervisor or the Watch Commander.

### 454.2.1 ASSIGNMENTS

Assignment and effective utilization of the bicycle patrol officers will be the responsibility of the Watch Commander and Bicycle Patrol Lieutenant or supervisor. Bicycle patrol officers may be assigned as follows:

(a) As a member of a specialized bicycle patrol unit assigned areas of patrol responsibility to best meet the needs of the community;

(b) To uniformed bicycle patrol as staffing permits and at the discretion of the shift supervisor;

(c) To work special details at the discretion of the commanding officer responsible for the event;

(d) Specialized bicycle patrol in designated areas as part of a Community Policing or Problem Oriented Policing project at the discretion of the shift supervisor or command staff member.

## 454.3 SELECTION OF PERSONNEL

Full-time and reserve police officers who have successfully completed the field training program and are off probation are eligible for the uniformed Bicycle Patrol Program. Eligible officers must complete, at a minimum, a 8 hour in-house course of police bicycle instruction. The instructor of the training course shall have completed a POST approved instructor's course. Officers who have

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completed 8 or more hours of similar training by another law enforcement agency are also eligible, if he/she has proper documentation or certification. Training should include the following subjects:

(a) Bicycle care and maintenance;

(b) Safe bicycle operations;

(c) Officer safety tactics;

(d) Pedestrian/bicycle/vehicle stops;

(e) Community relations.

Bicycle patrol officers must attend an update training when scheduled by the bicycle patrol supervisor.

Assignment to work Bicycle Patrol will be determined by the following:

(a) Intra-Departmental transfer submitted by officer candidate;

(b) Meet physical standards as required by the Bicycle Patrol Program Lieutenant and the Chief of Police;

(c) Successful completion of the Department Bicycle Patrol Training Course or equivalent;

(d) Final approval of Bicycle Program Lieutenant and the Chief of Police.

#### 454.3.1 BICYCLE PATROL UNIT SUPERVISOR

The Bicycle Patrol Program supervisor will be selected from the rank of sergeant or agent by the Field Services Division Captain or his/her designee.

The Bicycle Patrol Program supervisor shall have responsibility for the following:

(a) Organizing bicycle patrol training.

(b) Inspecting and maintaining inventory of patrol bicycles and program equipment.

(c) Scheduling maintenance and repairs.

(d) Evaluating performance of bicycle officers.

(e) Coordinating activities with the Field Services Division.

(f) Other activities as required to maintain the efficient operation of the Bicycle Patrol Unit.

### 454.4 TRAINING

Participants in the program must complete an initial Department approved bicycle-training course after acceptance into the program. Thereafter bicycle patrol officers should receive in-service training to improve skills and refresh safety, health and operational procedures when scheduled by the program supervisor. The initial training shall minimally include the following:

- Bicycle patrol strategies.
- Bicycle safety and accident prevention.

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- Operational tactics using bicycles.

## 454.5 UNIFORMS AND EQUIPMENT

Officers shall wear the department-approved uniform and safety equipment while operating the department bicycle. Safety equipment includes department-approved helmet, riding gloves, protective eyewear and approved footwear.

The bicycle patrol unit uniform consists of the standard short-sleeve uniform shirt or other department-approved shirt with department badge and patches, and department-approved bicycle patrol pants or shorts.

Optional equipment includes a radio head set and microphone, and jackets in colder weather. Turtleneck shirts or sweaters are permitted when worn under the uniform shirt.

Bicycle patrol officers shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

Officers will be responsible for obtaining the necessary forms, citation books and other department equipment needed while on bicycle patrol.

## 454.6 CARE AND USE OF PATROL BICYCLES

It shall be the officer's responsibility to inspect the bike before and after his or her deployment to ensure the bike is clean and in proper working order. The following bicycle upkeep and maintenance procedures shall apply:

(a) Officers may make minor repairs to their equipment as necessary to keep the bicycle operational;

(b) Damage, which the officer cannot repair, will be reported immediately to the Bicycle Patrol Sergeant and the bicycle clearly marked as "out of service";

(c) All major repairs and tune-ups will be completed by a Department-approved repair service, or Department certified maintenance officer;

(d) All bicycles will receive a tune-up every four months unless needed sooner. (This will be policy only if the bicycle is being used on a continued basis);

(e) Officers will use their handcuffs to secure their bicycles whenever out of the officer's sight;

(f) Officers shall clean their bikes prior to the end of their shift;

(g) All bicycles will be stored in the designated area.

## 454.7 OFFICER RESPONSIBILITY

Officers must operate the bicycle in compliance with the vehicle code under normal operation. Officers may operate the bicycle without lighting equipment during hours of darkness when such operation reasonably appears necessary for officer safety and tactical considerations. Officers must use caution and care when operating the bicycle without lighting equipment.

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Officers are exempt from the rules of the road under the following conditions (Vehicle Code § 21200(b)(1)):

(a) In response to an emergency call.

(b) While engaged in rescue operations.

(c) In the immediate pursuit of an actual or suspected violator of the law.

Bicycle Patrol Officers will use their assigned call numbers at all times. Bicycle Patrol Officers will respond to calls for service as requested by dispatch or the shift supervisor. Calls for service will be limited to calls within close proximity of their assigned area. Bicycle Patrol Officers will maintain use of the forward white light, and the rear red safety light at all times, unless movement for a specific assignment requires black out movement.

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# Foot Pursuits

## 458.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

## 458.2 DECISION TO PURSUE

The safety of department members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department members.

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place department members and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

(a) Containment of the area.

(b) Saturation of the area with law enforcement personnel, including assistance from other agencies.

(c) A canine search.

(d) [redacted]

(e) Air support.

(f) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

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### 458.3 GENERAL GUIDELINES

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

(a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory

[redacted]

(f) The physical condition of the officer renders him/her incapable of controlling the suspect if apprehended.

(g) The officer loses radio contact with the [dispatcher or with assisting or backup officers.

[redacted]

(i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.

(j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.

(k) The officer loses possession of his/her firearm or other essential equipment.

(l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.

(m) The suspect's location is no longer definitely known.

(n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department members or the public if the suspect is not immediately apprehended.

(o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

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## 458.4 RESPONSIBILITIES IN FOOT PURSUITS

### 458.4.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should, at a minimum, broadcast the following information as soon as it becomes practicable and available:

(a) Location and direction of travel

(b) Call sign identifier

(c) Reason for the foot pursuit, such as the crime classification

(d) Number of suspects and description, to include name if known

(e) Whether the suspect is known or believed to be armed with a dangerous weapon

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify the [dispatcher of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for officers, suspects or members of the public.

### 458.4.2 ASSISTING OFFICER RESPONSIBILITIES

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize non-essential radio traffic to permit the involved officers maximum access to the radio frequency.

### 458.4.3 SUPERVISOR RESPONSIBILITIES

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

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The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-foot pursuit activity.

458.4.4 THE COMMUNICATIONS CENTER RESPONSIBILITIES
Upon notification or becoming aware that a foot pursuit is in progress, the [dispatcher is responsible for:

(a) Clearing the radio channel of non-emergency traffic.

(b) Coordinating pursuit communications of the involved officers.

(c) Broadcasting pursuit updates as well as other pertinent information as necessary.

(d) Ensuring that a field supervisor is notified of the foot pursuit.

(e) Notifying and coordinating with other involved or affected agencies as practicable.

(f) Notifying the Watch Commander as soon as practicable.

(g) Assigning an incident number and logging all pursuit activities.

## 458.5 REPORTING

The initiating officer shall complete the appropriate crime/arrest reports documenting, at minimum, the following:

(a) The reason for initiating the foot pursuit.

(b) The identity of involved personnel.

(c) The course and approximate distance of the pursuit.

(d) Whether a suspect was apprehended as well as the means and methods used.

1. Any use of force shall be reported and documented in compliance with the Department Use of Force Policy.

(e) Any injuries or property damage.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

## 458.6 POLICY

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public or the suspect.

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Officers are expected to act reasonably, based on the totality of the circumstances.

**458.7 POLICY ISSUE DATE**
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# Global Positioning System

## 459.1 PURPOSE AND SCOPE

Global Positioning System (GPS) technology is embedded in many devices utilized by the Police Department including Mobile Data Computers (MDC), phones and citation machines. The technology is an asset to officer safety and can greatly assist officers with their response to calls as well as provide accurate location data. The GPS functionality in the MDCs provides Automatic Vehicle Location (AVL) which maps in the Computer Aided Dispatch System (CAD).

## 459.2 PROCEDURE

All personnel, when using a device equipped with GPS technology, shall adhere to the following procedure:

(a) If applicabable, initiate the GPS technolocy.

(b) Keep program properly operational throughout the entire shift.

## 459.3 TRAINING

All field personnel will be trained in the use of GPS technology , including how to recognize if the program is working properly and basic troubleshooting techniques that will rectify most problems. The training will be conducted by Department-authorized personnel.

## 459.4 RECORD KEEPING

Historical data is automatically logged and archived by many of these systems including but not limited to CAD and the parking citation application. Supervisors and Managers will not randomly access historical data unless it is necessary to locate an employee who is not responding, to locate missing equipment, or if such access is necessary in the course of an administrative inquiry or investigation.

## 459.5 REPORTING GPS PROBLEMS

If the GPS program does not operate properly, personnel should reboot the system as trained. If that does not solve the problem, they are required to immediately notify their supervisor. If the supervisor cannot rectify the problem, the field unit or supervisor shall send an e-mail message to the Helpdesk before the end of the shift describing the problem and requesting that it be fixed.

The supervisor, at their discretion, may require the field unit to use another vehicle or device. If the field unit goes into service without working GPS technology, they shall advise Communications verbally using the police radio.

## 459.6 MANDATORY USE OF GPS

The use of the GPS is mandatory for all on-duty personnel using a device equipped with this technology.

## 459.7 POLICY ISSUE DATE

Updated 12-8-16

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# Automated License Plate Readers (ALPRs)

## 462.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

## 462.2 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

(a) An ALPR shall only be used for official law enforcement business.

(b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.

(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(d) No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department-approved training.

(e) No ALPR operator may access Department, state or federal data unless otherwise authorized to do so.

(f) If practicable, the officer should visually confirm the plate and verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

## 462.3 DATA COLLECTION AND RETENTION

The Administrative Services Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data.

The City's ALPR vendor will purge the data 30 days after collection; however, this will not preclude Palo Alto Police Department from maintaining any relevant vehicle data obtained from the system after that period if it has become, or it is reasonable to believe it will become, evidence in a specific criminal investigation or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

## 462.4 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Palo Alto Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

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(a) All ALPR data shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date, and time.

(b) Persons approved to access ALPR data under this policy are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation

(c) Such ALPR data may only be released to other authorized and verified local enforcement officials and agencies for legitimate law enforcement purposes.

(d) Every ALPR system inquiry must be documented by either the associated case number or incident number, and lawful reason for the inquiry.

For security or data breaches, see the Records Release and Maintenance Policy.

## 462.5 POLICY

**Intended Purpose.** The technology is used by the Palo Alto Police Department to convert data associated with vehicle license plates and vehicle descriptions for official law enforcement purposes, including but not limited to identifying stolen or wanted vehicles, stolen license plates and missing persons, suspect interdiction and stolen property recovery.

**Authorized Uses.** Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy.

The following uses of the ALPR system are specifically prohibited:

(a) Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.

(b) Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.

(c) First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights of any person.

(d) Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

## 462.6 RELEASING ALPR DATA

The ALPR data may be shared only with public agencies and only as otherwise permitted by law (Civil Code § 1798.90.55).

For purposes of this section, a public agency is limited to California state or local agencies, including law enforcement agencies, and does not include out-of-state or federal law enforcement agencies (Civil Code § 1798.90.5).

The following procedures are guidelines for ALPR requests:

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(a) The agency makes a written request for the ALPR data that includes:

1. The name of the agency.
2. The name of the person requesting.
3. The intended purpose of obtaining the information.

(b) The request is reviewed by the Administrative Services Division Captain or the authorized designee and approved before the request is fulfilled.

(c) The approved request is retained on file.

Requests for ALPR data by non-California public agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

## 462.7 TRAINING

The Personnel and Training Lieutenant should ensure that members receive Department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

## 462.8 POLICY UPDATE

05/23/2023

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# First Amendment Assemblies

## 467.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

## 467.2 POLICY

The Palo Alto Police Department respects the rights of people to peaceably assemble. It is the policy of this [department/office] not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

## 467.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers should not:

(a) Engage in assembly or demonstration-related discussion with participants.

(b) Harass, confront or intimidate participants.

(c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe [department/office] members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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#### 467.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating [department/office] performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious, or social views of associations, or the activities of any individual, group, association, organization, corporation, business, or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

### 467.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to the Communications Center, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

### 467.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

#### 467.5.1 INFORMATION GATHERING AND ASSESSMENT

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.

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- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

### 467.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

(a) Command assignments, chain of command structure, roles and responsibilities.

(b) Staffing and resource allocation.

(c) Management of criminal investigations.

(d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields).

(e) Deployment of specialized resources.

(f) Event communications and interoperability in a multijurisdictional event.

(g) Liaison with demonstration leaders and external agencies.

(h) Liaison with City government and legal staff.

(i) Media relations.

(j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation.

(k) Traffic management plans.

(l) First aid and emergency medical service provider availability.

(m) Prisoner transport and detention.

(n) Review of policies regarding public assemblies and use of force in crowd control.

(o) Parameters for declaring an unlawful assembly.

(p) Arrest protocol, including management of mass arrests.

(q) Protocol for recording information flow and decisions.

(r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.

(s) Protocol for handling complaints during the event.

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(t) Parameters for the use of body-worn cameras and other portable recording devices.

467.5.3 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Outside Agency Assistance Policy).

## 467.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

## 467.7 USE OF FORCE

Use of force is governed by current [department/office] policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and Conducted Energy Devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

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Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this [department/office] shall be documented promptly, completely and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

## 467.8 ARRESTS

The Palo Alto Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

(a) Reasonable measures to address the safety of officers and arrestees.

(b) Dedicated arrest, booking and report writing teams.

(c) Timely access to medical care.

(d) Timely access to legal resources.

(e) Timely processing of arrestees.

(f) Full accountability for arrestees and evidence.

(g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Cite and Release Policy).

## 467.9 MEDIA RELATIONS

The Press Information Officer should use all available avenues of communication, including press releases, briefings, press conferences, and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

### 467.9.1 MEDIA ACCESS

If officers close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged in a protected activity pursuant to the First Amendment, officers shall comply with the requirements of Penal Code § 409.7 relating to media access (i.e., access to closed areas, obtaining information) (Penal Code § 409.7).

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## 467.10 DEMOBILIZATION

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

## 467.11 POST EVENT

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

(a) Operational plan

(b) Any incident logs

(c) Any assignment logs

(d) Vehicle, fuel, equipment and supply records

(e) Incident, arrest, use of force, injury and property damage reports

(f) Photographs, audio/video recordings, the Communications Center records/tapes

(g) Media accounts (print and broadcast media)

### 467.11.1 AFTER-ACTION REPORTING

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

(a) Date, time and description of the event

(b) Actions taken and outcomes (e.g., injuries, property damage, arrests)

(c) Problems identified

(d) Significant events

(e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

## 467.12 TRAINING

[Department/Office] members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The [Department/Office] should, when practicable, train with its external and mutual aid partners.

Officers should also receive periodic training on the standards for the use of kinetic energy projectiles and chemical agents for crowd control purposes as identified in Penal Code § 13652.

## 467.13 USE OF KINETIC ENERGY PROJECTILES AND CHEMICAL AGENTS FOR CROWD CONTROL

Kinetic energy projectiles and chemical agents for crowd control purposes shall only be deployed by officers who have received POST training for crowd control if the use is objectively reasonable

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to defend against a threat to life or serious bodily injury to any individual, including an officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control and in accordance with the following requirements of Penal Code § 13652.

(a) De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.

(b) Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.

(c) Individuals are given an objectively reasonable opportunity to disperse and leave the scene.

(d) An objectively reasonable effort has been made to identify individuals engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of individuals.

(e) Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.

(f) Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.

(g) An objectively reasonable effort has been made to extract individuals in distress.

(h) Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.

(i) Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.

(j) Kinetic energy projectiles or chemical agents shall not be used solely due to any of the following:

1. A violation of an imposed curfew.
2. A verbal threat.
3. Noncompliance with a law enforcement directive.

(k) If the chemical agent to be deployed is tear gas, only an Incident Commander at the scene of the assembly, protest, or demonstration may authorize its use.

### 467.13.1 USE SUMMARY

The Field Services Division Captain or the authorized designee should ensure that a summary of each deployment of kinetic energy projectiles or chemical agents for crowd control purposes is prepared and published on the [department/office] website within 60 days of each incident. The time frame may be extended for another 30 days where just cause is demonstrated, but no longer than 90 days from the time of the incident. The summary shall be limited to the information known

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to the [Department/Office] at the time of the report and include the information required in Penal Code § 13652.1.

## 467.14 UPDATES

4/20/22

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# Medical Aid and Response

## 469.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons who appear or are in need of medical aid and establishes a law enforcement response to such situations.

## 469.2 POLICY

It is the policy of the Palo Alto Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

## 469.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact the Communications Center and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide the Communications Center with information for relay to EMS personnel in order to enable an appropriate response, including:

(a) The location where EMS is needed.

(b) The nature of the incident.

(c) Any known scene hazards.

(d) Information on the person in need of EMS, such as:

1. Signs and symptoms as observed by the member.
2. Changes in apparent condition.
3. Number of patients, sex, and age, if known.
4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
5. Whether the person is showing signs or symptoms of extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

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### 469.4 TRANSPORTING ILL AND INJURED PERSONS

Except in exceptional cases where alternatives are not reasonably available, members should not transport persons who are not in custody and who are unconscious, who have serious injuries, or who may be seriously ill. EMS personnel should be called to handle patient transportation.

For guidelines regarding transporting ill or injured persons who are in custody, see the Transporting Persons in Custody Policy.

Members should not provide emergency escort for medical transport or civilian vehicles.

### 469.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Mental Illness Commitments Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

### 469.6 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

### 469.7 AIR AMBULANCE

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

Field Services Division Captain

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## 469.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

A member may use an AED only after receiving appropriate training from an approved public safety first aid and CPR course (22 CCR 100026.01; 22 CCR 100027.01; 22 CCR 100027.02).

### 469.8.1 AED USER RESPONSIBILITY

Members who are issued AEDs for use in Department vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the medical team supervisor or designee who is responsible for ensuring appropriate maintenance.

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any member who uses an AED should contact the Communications Center as soon as possible and request response by EMS.

### 469.8.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use.

### 469.8.3 AED TRAINING AND MAINTENANCE

The Personnel and Training Lieutenant should ensure appropriate training and refresher training is provided to members authorized to use an AED. A list of authorized members and training records shall be made available for inspection by the local EMS agency (LEMSA) or EMS authority upon request (22 CCR 100027.05; 22 CCR 100027.06; 22 CCR 100028.07).

The Personnel and Training Lieutenant is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule (22 CCR 100027.05).

## 469.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Trained members may administer opioid overdose medication (Business and Professions Code § 4119.9).

### 469.9.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Personnel and Training Lieutenant.

Any member who administers an opioid overdose medication should contact the Communications Center as soon as possible and request response by EMS.

### 469.9.2 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering opioid overdose medication should detail its use in an appropriate report.

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The Personnel and Training Lieutenant will ensure that the Records Manager is provided enough information to meet applicable state reporting requirements.

469.9.3 OPIOID OVERDOSE MEDICATION TRAINING
The Personnel and Training Lieutenant should ensure initial and refresher training is provided to members authorized to administer opioid overdose medication. Training should be coordinated with the local health department and comply with the requirements in 22 CCR 100027.03 and any applicable POST standards.

469.9.4 DESTRUCTION OF OPIOID OVERDOSE MEDICATION
The Personnel and Training Lieutenant shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

469.9.5 OPIOID OVERDOSE MEDICATION RECORD MANAGEMENT
Records regarding acquisition and disposition of opioid overdose medications shall be maintained and retained in accordance with the established records retention schedule and at a minimum of three years from the date the record was created (Business and Professions Code § 4119.9).

## 469.10 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, the arrestee should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance to an appropriate medical facility.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

## 469.11 FIRST-AID TRAINING

The Personnel and Training Lieutenant should ensure officers receive initial first-aid training within one year of employment and refresher training every two years thereafter (22 CCR 100026.03; 22 CCR 100027.06).

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# Terrorism Liaison Officer

## 470.1 PURPOSE AND SCOPE

The 9-11 Commission Report was chartered to prepare a full and complete account of the circumstances surrounding the September 11, 2001 terrorist attacks, including preparedness for and the immediate response to the attacks. The Commission was also mandated to provide recommendations designed to guard against future attacks. As a result of the investigation, it was recognized that prior to the attacks the US Government had vast amounts of information and intelligence but weak systems to process and use it. Nationally, networks of intelligence fusion centers have been created to serve as a central hub to collect, analyze, and disseminate information regarding threats. Fusion centers are multi-disciplined task forces with representatives from law enforcement, the fire service, public health and the private sector. The fusion center serving the City of Palo Alto is the Northern California Regional Intelligence Center (NCRIC).

The role of the law enforcement and fire service community in relation to the fusion center is to maintain a two-way sharing of information both in receiving threat related information as well as reporting information that may portend a criminal and/or terrorist threat. The purpose of this policy is to establish a process for intelligence sharing between the Palo Alto Police Department and the Northern California Regional Intelligence Center (NCRIC) as well as insuring that the privacy concerns and civil rights of the public are well protected.

## 470.2 POLICY

It shall be the policy of the Palo Alto Police Department to disseminate intelligence received throughout the organization on a need to know basis. Information which is disseminated is confidential and shall not be shared with the media, the public or anyone who is not an authorized, direct recipient. It shall be the policy of the Palo Alto Police Department to report information, activities or observations which are suspicious in nature to NCRIC through the Terrorism Liaison Officers (TLO) and TLO-Coordinator, absent exigent circumstances. When Palo Alto Police Department employees discover information they believe may be indicative of terrorist activity, it is the policy of the Department that all such information will be scrutinized and balanced against the individual’s right to privacy, applicable laws, and the Constitution.

Nothing in this policy should be construed as suggesting that any law, such as those related to search and seizure, may not apply when it comes to an incident that might be terrorism related. To the contrary, it is the policy of this agency that its employees will not use factors such as race, religious affiliation, and social or political views as the sole basis for determining if a matter qualifies as possible terrorism activity.

Employees will neither collect nor report information to other agencies regarding an individual’s religious activities, political views, social agendas, or other non-criminal activity. The exception will be when those factors have bearing on other articulated facts that suggest terrorist or criminal behavior. Any files kept by the Palo Alto Police Department on individuals or organizations will be kept in accordance with 28 Code of Federal Regulations Part 23 and Palo Alto Police Department

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Policy 810 (Records Maintenance and Release) and 812 (Protected Information). Any suspicious incident should be documented in a Palo Alto Police report under the appropriate heading. The Department is committed to working with its local, state, and Federal partners on matters of terrorism while working within the bounds of California state law and applicable privacy protections.

## 470.3 DEFINITIONS

Terrorism: The unlawful use or threatened use of force or violence against individuals or property in an attempt to coerce or intimidate governments or societies to achieve political, religious, or ideological objectives.

Fusion Center: a collaborative effort of two or more agencies that provide resources, expertise and/or information with the goal of maximizing the ability to detect, prevent, apprehend and respond to criminal and terrorist activity.

Intelligence: Information with a limited inherent meaning that is assessed for validity and reliability and further reviewed for relevance to a threat or investigation thereby giving it meaning.

NCRIC: The Northern California Regional Intelligence Center, based in San Francisco, is one of four California fusion centers.

Suspicious in nature: An action, response, person, possession or threat which is unusual and may portend a criminal or terrorist motive.

Right/Need to know: Requested information is pertinent and necessary to the requestor agency in initiating, furthering, or completing an investigation. Requestor has official capacity and statutory authority to the information being sought.

Terrorism Liaison Officer (TLO): A sworn Peace Officer, crime analyst, or other specially selected Department employee who has attended a POST certified TLO Basic course and has been trained in terrorist tactics and strategies. Other City employees may also be certified as TLOs and should coordinate their reporting and activities with the Palo Alto TLO-C. In particular, the City's Office of Emergency Services (OES) has a number of TLOs and routinely works with multiple other agencies for regional counter terrorism planning, including the NCRIC.

## 470.4 ROLES AND RESPONSIBILITIES

Terrorism Liaison Officer (TLO): Shall be responsible for the dissemination of information received and the reporting of information as approved by the TLO-Coordinator. TLOs will also serve as a subject matter expert within the agency, available to assist other employees in determining what constitutes suspicious activity.

Terrorism Liaison Officer Coordinator (TLO-C): A designated supervisor who shall coordinate and oversee the collection, documentation and dissemination of information from the TLOs to ensure policy is followed and that information is shared with the appropriate divisions including investigations and Command Staff as appropriate. The TLO-C will ensure that information is shared with other employees that is relevant and in accordance with policy. Subject to the discretion of management, this position should be filled by the Investigative Services Property

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Crimes Supervisor. The TLO-C will have the primary responsibility to work with OES and other City staff (including other departments' TLOs to provide ongoing coordination and training.

Terrorism Liaison Officer Manager: a designated manager who shall provide oversight of the TLO program and provide a means for reporting information to the management group and executive management team as necessary.

Palo Alto Police Department Employees: Relative to intelligence, it shall be the responsibility of the department personnel throughout all divisions to be cognizant that they play a vital role in reducing crime and terrorism by reporting information that may prove actionable to the TLOs or TLO-C.

Certification and Training: Department employees interested in becoming a TLO must attend a POST certified TLO Basic Course. The TLO-C will participate in terrorism-related regional training and meetings and will provide on-going training to Department personnel and other City departments' TLOs as appropriate.

## 470.5 PROCEDURES

Threat Warnings:

Successful terrorist attacks have followed an established pattern with three identifiable phases:

(a) Research and Reconnaissance

(b) Planning

(c) Execution

The purpose for sharing information is to identify and disrupt terrorist activities before they reach the execution phase. Given that local law enforcement and fire personnel may be the first to encounter terrorist activity at any phase, it is vital that they be equipped with current information regarding terrorist and criminal activity, networks and patterns. The NCRIC and other Fusion Centers will disseminate information concerning terrorist and criminal activity to local jurisdictions via authorized TLOs. The Department's TLOs will be responsible for disseminating that information to the rest of the Department as appropriate after receiving approval from the TLO-C or the TLO Manager. The information shared, including information deemed "Unclassified//For Official Use Only" shall not be discarded in the trash, given to the media or posted or placed on uncontrolled websites. Any questions regarding the dissemination of information shall be referred to the TLOs.

## 470.6 FIELD OPERATIONS

Department personnel observing activities, actions, persons, transactions, equipment, paraphernalia or propaganda, which in their opinion is suspicious in nature and may have a terrorism nexus should report it to a Palo Alto Police Department TLO or TLO-C within a timely basis. Examples of suspicious and actionable information may include, but are not limited to:

Suspicious fire, jihadist materials, chemical stockpiles, shadow business occupancies, burns from chemicals, theft of official vehicles, radiation burns, theft of uniforms/equipment, explosions, smuggling operations, targeted vandalism, detailed plans of critical infrastructure, violent anti-

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government propaganda, illogical explanation of injuries,, surveillance activities and defensive/ evasive communication and possibly hate related crimes.

Since there may be a justifiable and legitimate explanation for each of these activities, none of these observations independently signify that the subject(s) are involved in terrorism related activity. However, the information may be part of a larger set of indicators pointing to a terrorism nexus. Generally, after being notified of suspicious activity, a Palo Alto Police Department TLO will notify the TLO-C who will approve further reporting to the NCRIC if applicable. The TLO-C will ensure the ISD Manager, OES, and any other pertinent staff are alerted to the situation if warranted. Depending on the nature of the information observed, a field investigation may be warranted. Any field investigation will be coordinated through NCRIC and the Palo Alto Police Department. Absent exigent circumstances, no member of this Department should report a situation possibly related to terrorist activity to the fusion center or the FBI without approval from the TLO-C.

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# Disengagement – Non-Criminal Barricade

## 471.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations in which officers have legal cause to contact or detain a subject to determine if he or she meets criteria for a mental health evaluation, but the subject is not wanted for a crime. This policy provides specific strategies for resolution of these dynamic and rapidly evolving incidents.

## 471.2 DEFINITIONS

**Non-criminal Barricade:** An incident in which a subject maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon, and/or it is reasonable to believe the subject possesses a propensity to cause harm or serious bodily injury to him/herself. A non-criminal barricade occurs when the subject is not wanted for a crime, and law enforcement's objectives are ensuring the immediate safety of the subject and those present at the scene and determining whether the subject meets criteria for a mental health evaluation. Nothing in this policy should be construed to provide direction on a criminal barricade situation when the barricaded person is suspected of committing a crime.

**Special Relationships:** Though law enforcement generally has no constitutional duty to protect members of the general public from harm, officers do have an affirmative duty to protect specific individuals if they have established a "special relationship" with them. Special relationships arise in two ways: (1) an officer makes an express or implied representation upon which someone detrimentally relies, and this causes foreseeable harm, or (2) an officer engages in an affirmative act that increases the foreseeable risk of harm to an individual. A special relationship creates a duty of care, i.e. an obligation to protect an individual where one would not otherwise exist.

Examples of special relationship duties include protecting those in police custody at the scene of arrest, during transport, and while in holding; ensuring the safety of motorists and pedestrian when law enforcement gives commands at an accident scene; and following through on any promises made to notify victims of their assailants' release from custody.

**Strategic Disengagement:** This is the tactical decision to leave, delay contact, delay custody, or plan to make contact at a different time and under different circumstances. This tactic should be considered when continued contact may result in an undue safety risk to the subject, other individuals or officers on scene, or the greater public. Where officers have a reasonable, articulable belief that an individual presents an immediate danger to him/herself, prior to disengagement, officers shall assess whether they could reasonably remain at the scene and use other tactics to diminish the risk of harm to the subject without increasing the risk of harm to anyone else.

## 471.3 POLICY

The Palo Alto Police Department will address non-criminal barricade situations with care and concern for the preservation of life and protection of subjects, officers, and third parties from the risk of injury whenever possible. Officers should be aware of the distinction between an armed,

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barricaded suspect wanted for a crime and a barricaded subject who has not committed a crime but has only expressed the desire to harm him/herself. It is not a criminal act to express the desire to or attempt to commit suicide, and suicidal or mentally ill subjects do not forfeit any constitutional protections.

### 472.3.2 FIRST RESPONDER CONSIDERATIONS

When circumstances permit, the first officers on scene should try to establish and maintain lines of communication with a barricaded subject. Officers should attempt to identify and locate anyone else present at the scene, inquire about potential victims and injuries, gather intelligence information, and obtain the subject's compliance.

An officer responding to a call involving a person in crisis should:

(a) Assess the situation and consider whether the subject may be experiencing a mental health crisis.

(b) Examine critically whether previously reported information appears to be accurate.

(c) If circumstances permit, stage away from the location of the call to develop tactical plan and coordinate the response with assisting units.

    (a) Gather information

        (a) Is anyone else barricaded with the subject or on the premises?

        (b) Does the subject have a mental health history?

        (c) Are any firearms registered to the subject or to anyone else at the premises?

    (b) Assess risk

        (a) Does the situation require an immediate response?

        (b) When appropriate or practical, consider if others can be evacuated without escalation

        (c) If the subject has committed a crime, what is the seriousness of the offense?

        (d) Does the subject have access to a weapon?

        (e) Is the subject in a position to harm anyone else? Has the subject manifested an intent to do so?

        (f) Consider additional resources: could include more officers, Crisis Negotiation Team, Psychiatric Emergency Response Team (PERT), personnel from the Santa Clara County Behavioral Health Services Department, family/friends/coworkers of the subject, etc

(d) Assign responsibilities: Secure perimeter, contact team, communication with subject. This assessment should be ongoing. If the subject commits a crime, it may alter the response.

### 472.3.3 COMMUNICATING WITH THE SUBJECT

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Establishing and maintaining communication with subject is essential. Two officers who are not supervising the response should assume the communication responsibilities; one officer should establish direct communication with the subject while the second relays information to the supervisor and/or dispatch regarding incident progress.

472.3.4 DISENGAGEMENT

Disengagement may be appropriate when reasonable negotiations or attempts at negotiations have not brought the situation to a stable resolution. Prior to disengaging and leaving the scene, officers should be mindful of the following:

(a) Consider the safety of the subject, others at the scene, and those who may arrive later.

(b) Do not make any promises to the subject, his or her family, or community members.

(c) Consider providing a Disengagement Advisement to those who have been contacted during the incident. *See disengagement advisement below.

(d) Prior to leaving the scene, officers should gather all relevant information about the subject, family members, doctors, location intelligence, floor plan, neighbor contacts, etc.

(e) Strategic disengagement can be initiated by an officer on scene with supervisory approval.

472.3.5 DISENGAGEMENT ADVISEMENT

Prior to leaving the scene, and to mitigate the creation of unwarranted special relationships, officers should consider reading the Palo Alto Police Department Disengagement Advisement to those who have been contacted during the incident:

**"The Palo Alto Police Department is giving you the following notice: After considering the factors affecting the safety of all concerned by this event, based on the totality of the circumstances, the Police Department believes the best course of action is to leave the area. You must use your own judgment and take necessary measures to protect yourself in our absence. If a new emergency develops, call 9-1-1."**

472.3.6 RE-ENGAGEMENT PLAN

The Psychiatric Emergency Response Team will utilize available law enforcement and mental health resources to investigate the subject's circumstances and history and, when appropriate, will develop a plan to contact the subject and/or the subject's treatment team.

472.3.7 REPORTING OF DISENGAGEMENT

Any disengagement of a non-criminal barricaded subject(s) shall be documented in an appropriate report, absent supervisory permission to the contrary. The officer should articulate the factors leading up to the call for service, attempts to deescalate the situation and the reasoning associated with the decision to disengage from the incident.

472.3.8 NOTIFICATION TO SUPERVISORS

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*Disengagement – Non-Criminal Barricade*

Before deciding to disengage from a non-criminal barricaded situation, an officer must obtain supervisory permission. The supervisor should be informed of the situation's circumstances and the rationale behind the officer's decision to disengage. Once notified, the supervisor should confirm that efforts were made to de-escalate and that other options were explored but found to be unfeasible.

### 471.4 POLICY ISSUE DATE

12-18-23

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# Chapter 5 - Traffic Operations

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# Traffic Function and Responsibility

## 500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

## 500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Palo Alto Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are requests from the public, construction zones or special events.

## 500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

### 500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

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### 500.3.2 CITATIONS

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

(a) Explanation of the violation or charge

(b) Court appearance procedure including the optional or mandatory appearance by the motorist

(c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

### 500.3.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

(a) Vehicular manslaughter

(b) Felony and misdemeanor driving under the influence of alcohol/drugs

(c) Felony or misdemeanor hit-and-run

(d) Refusal to sign notice to appear

(e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

## 500.4 SUSPENDED OR REVOKED DRIVERS LICENSES

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

## 500.5 HIGH-VISIBILITY VESTS

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

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### 500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

### 500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in the trunk of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Personnel and Training Lieutenant should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

## 500.6 POLICY ISSUE DATE

Updated: 1-4-17

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# Traffic Motorcycle Units

## 501.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines and responsibilities for those members of the Palo Alto Police Department Traffic Division assigned as Traffic Motorcycle Officers.

### 501.1.1 ENFORCEMENT

Citations shall be issued in accordance with Policy Manual §500.3. In accordance with the Palo Alto Police Department's Community Policing philosophy, motor officers may work with specific community groups, individuals, outside agencies and other City divisions to identify problem traffic locations and problems. Motor officers will seek to find long term solutions to these problems. Specialized enforcement may be a component of these community policing solutions.

### 501.1.2 FREEWAYS

Unless directed by a supervisor, motorcycle officers are discouraged from routinely patrolling freeways for the purpose of taking enforcement action.

## 501.2 TRAINING

All personnel selected for a motorcycle assignment must successfully pass a Department approved pre-training program, graduate from a POST certified motorcycle academy, pass a Department approved field training program, and continually display the ability to safely operate a police motorcycle. Additionally, motorcycle officers must possess a valid class M driver's license throughout the duration of their assignment.

The traffic team supervisor is responsible for ensuring that all motorcycle officers complete eight hours of quarterly training.

Failure to meet the performance standards or any of the aforementioned training will result, at the discretion of the Field Services Division Captain, remedial training and/or reassignment within the Traffic Division or the Patrol Division.

The traffic team supervisor will ensure that all pre-training, FTO training, and quarterly training is documented and that all training forms are submitted to the Personnel and Training Unit.

### 501.2.1 RECERTIFICATION

Personnel that have left the motorcycle program for less than three years, will be evaluated by a POST certified motorcycle instructor and will be required to successfully pass a training plan authorized by the Field Services Division Captain. Personnel that have left the motorcycle program for a period greater than three years may be required to successfully complete the entire training program prior to re-assignment to the motor unit.

### 501.2.2 SAFETY

Traffic officers will not operate a motorcycle without properly wearing an authorized helmet, high-top boots, gloves, non-mirrored sunglasses, and an authorized uniform.

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Motorcycle officers will not routinely drive on sidewalks or on unpaved surfaces unless required at a special event, during authorized training or unless directed by a traffic supervisor for a specific purpose and time period. Traffic officers may stop or park in red zones and other restricted areas while monitoring roadways for traffic violations if they do not create an unreasonable risk for the safety of the officer or the public.

## 501.3 UPKEEP AND MAINTENANCE

In accordance with the guidelines of the Federal Fair Labor and Standards Act (FLSA); the Traffic Division Supervisor shall insure that each officer assigned a motorcycle is provided ample time on duty weekly to maintain his/her motorcycle in a clean, serviceable condition. Such on duty cleaning and maintenance time may be provided at the beginning or end of the shift at the discretion of the Traffic Division Supervisor. Overtime is not authorized for the maintenance and upkeep of motorcycles without prior supervisory approval in accordance with Policy Manual §1038.

### 501.3.1 RESPONSIBILITIES

Each motorcycle officer is responsible for:

(a) Daily check of tire wear and proper tire inflation;

(b) Daily checks of lighting and emergency systems;

(c) Adequate lubrication and routine servicing;

(d) Weekly check of proper oil level in the transmission and oil reservoir;

(e) Weekly cleaning of the motorcycle while on-duty;

(f) Immediate notification to a traffic supervisor and City mechanic of any suspected mechanical or safety problem with the motorcycle;

(g) Motorcycles shall not be modified from the original specifications and no parts or accessories will be removed, added, or changed, except for routine maintenance, without the written approval of the Traffic Lieutenant.

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# Traffic Collision Reporting

## 502.1 PURPOSE AND SCOPE

The Palo Alto Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM) and as a public service makes traffic collision reports available to the community with some exceptions.

## 502.2 RESPONSIBILITY

The Traffic Lieutenant will be responsible for distribution of the Collision Investigation Manual. The Traffic Lieutenant will receive all changes in the state manual and ensure conformity with this policy.

## 502.3 TRAFFIC COLLISION REPORTING

It shall be the policy of the Palo Alto Police Department to respond to all collisions which occur in the City of Palo Alto, unless they fall under private property exemptions or meet the criteria for a counter report. Police personnel shall not attempt to discourage parties involved in collisions from making traffic collision reports. This policy designates the conditions for which collision documentation shall occur.

When facts and circumstances are of such a substantive nature as to lead to a reasonable articulable basis for establishing a violation, a Notice to Appear under the authority of Vehicle Code §40600 may be issued.

The provisions of the California Highway Patrol Collision Investigation Manual shall be utilized as a guide during the investigation of all traffic collisions that occur within the City of Palo Alto.

### 502.3.1 PROCEDURE

Traffic Collisions which fall into the following categories will be documented as an "Investigation":

(a) **Fatality**: A motor vehicle collision which results in the death of a person, on or off the highway;

(b) **Major Injury**: A motor vehicle collision which results in severe injury, as defined by the CIM. A report may be taken at the discretion of the on-duty supervisor, when the injury does not require hospitalization;

(c) **Vehicle Code § 20001**: An involved party is in violation of section 20001 of the California Vehicle Code;

(d) **Vehicle Code § 20002**: An involved party is in violation of section 20002 of the California Vehicle Code and sufficient information is available to warrant follow-up and/or prosecution. A minor damage 20002 may be documented as a Report (555) with prior supervisory approval;

(e) **When directed by a supervisor**.

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502.3.2 INVESTIGATION FORMAT (CHP 556):
Traffic Collisions completed under the above conditions shall be documented as an Investigation (CHP 556). The format to be used for Investigations shall be as follows:

(a) **Facts**

1. **Notification**;
2. **Scene**;
3. **Parties**;
4. **Physical Evidence**;
5. **Hit & Run** (if applicable);
6. **Hazardous Material** (if applicable);
7. **Other**.

(b) **Statements**

(c) **Opinions and Conclusions**

1. **Area of Impact** (AOI);
2. **Intoxication** (if 909A not used);
3. **Cause**

(d) **Recommendation**.

502.3.3 REPORTS (CHP 555)
Traffic Collisions which fall into the following categories will be documented as a "Report":

(a) **Minor Injury**: A motor vehicle collision which results in minor injury or complaint of pain;

(b) **Damage to Public Property**: A motor vehicle collision which results in damage to State, County, or City property. A "Damage to City Property" report shall accompany any collision involving a City vehicle or City property;

(c) **Specific Vehicle Code Violations**: A motor vehicle collision in which an involved party is in violation of Vehicle Code §§:

1. 2800.1;
2. 12500(a);
3. 14601;
4. 23103;
5. 23109 and/or;
6. 23152.

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(d) **Major Vehicle Damage**: A motor vehicle collision which results in major damage to any vehicle requiring the vehicle to be towed. This does not include damaged radiators or fenders bent onto tires.

(e) **Property Damage**: All other property damage collisions, except those exceptions that are listed in this policy, will be documented as a "Report".

(f) **When directed by a supervisor**.

502.3.4 REPORT FORMAT (CHP 555)
Traffic Collisions completed under the above conditions shall be documented as a Standard Report (CHP 555). The format to be used for the Standard Report shall be as follows:

(a) **Summary**: The officer should give his/her opinion of what took place, explaining how the collision occurred. This information should include:

1. The vehicle direction of travel, the lane of travel, and the approximate speed of the involved vehicles, etc.;
2. The action of the drivers that contributed to the collision;
3. The point of impact and a brief explanation of the supporting evidence.

(b) **Statements**: When issuing a Notice of Violation or requesting a complaint;

(c) **Cause**: The officer should explain why the collision occurred by indicating the driver responsible and the act and/or violation which caused the collision (primary collision factor);

(d) **Recommendation**: This should be given when appropriate for requesting a complaint or issuing a Notice to Appear.

502.3.5 PROPERTY DAMAGE ONLY REPORT (EXCHANGE OF INFORMATION REPORT CHP 555-03)
Form CHP 555-03 should be completed under the following circumstances:

(a) Property Damage Only (PDO) collisions involving one or two vehicles, without injuries or fatalities, and no prosecution of an infraction, misdemeanor or felony is anticipated;

(b) Form CHP 555-03 should not be used when the following conditions are present:

1. More than two vehicles are involved;
2. City vehicles or City property is involved;
3. Potential City liability exists;
4. Hazardous material spills are involved;
5. Hazardous mechanical violation(s) are identified as a contributing factor to the collision (i.e., defective brakes, inoperative brake lamps etc);

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6. A qualified Commercial Vehicle (as listed in Policy Manual §502.39) is involved;
7. Major vehicle damage to either vehicle, as defined in Policy Manual §502.39.

### 502.3.6 PROPERTY DAMAGE ONLY (PDO) REPORT FORMAT

(a) A case number shall be obtained, the Primary Collision Factor should be determined, and the specific location and the directions of travel of the involved vehicles should be documented;

(b) The insurance information should be obtained and noted on the report;

(c) The report should be separated and copies should be provided to the involved parties;

(d) The bottom portion of the report should be completed and a short narrative (Summary/ Cause) should be written of how the accident occurred on the back of page 1. No recommendation is to be made;

This 555-03 report procedure will apply equally to adults and juveniles. 555-03 reports will not be sent to the Statewide Integrated Traffic Reporting System (SWITRS). Copies of the 555-03 serve as the driver's report for insurance purposes. Page 1 of all 555-03 reports will be maintained in the Police Department's Records Division for public access.

### 502.3.7 COUNTER REPORTS

Reports will be taken at the counter when collisions involve parties who have left the scene but desire a police report. Civilian Police employees will obtain a case number from Communications and have the reporting parties fill out a Driver's Report of Traffic Collision.

(a) A counter report will be taken if there is a violation of Vehicle Code § 20002 and there is insufficient information to warrant follow-up.

(b) An officer will respond to the Police Counter and take a report (555/556) under the following conditions:

1. Hit and run reports where there is sufficient information for follow-up;
2. Traffic Collisions with injury or complaint of pain resulting at the time of the collision.

(c) Civilian employees will not list a determination of fault per California Vehicle Code § 20015.

### 502.3.8 COMMERCIAL VEHICLES

(a) Form CHP 555D will be filled out for each qualified vehicle and attached to a collision report when:

1. One or more qualified vehicles was involved, and;
2. One or more qualified injuries was sustained, or;

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3. One or more vehicles was towed from the scene, or;
4. One or more vehicles was provided assistance.

(b) A qualified vehicle is defined as:

1. A vehicle with a GVWR (gross vehicle weight rating) of 10,001 pounds or more and has a DOT (Department of Transportation) number;
2. Any vehicle displaying a hazardous material placard;
3. Buses designed to carry more than 10 people, not including the driver.

(c) A qualified injury is defined as:

1. Any injury severe enough for the injured person to require transportation from the scene for immediate medical attention, or a fatality.

(d) Provided assistance is defined as:

1. Any assistance provided by Police, Fire, or Tow Company personnel to get the vehicle from the scene. This does not include assistance to change a flat tire.

## 502.4 REPORTING SITUATIONS

### 502.4.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES

Traffic collision investigation reports shall be taken when a City-owned vehicle is involved in a traffic collision upon a roadway or highway wherein any damage or injury results. A general information report may be taken in lieu of a traffic collision report (CHP 555 form) at the direction of a supervisor when the collision occurs on private property or does not involve another vehicle. Whenever there is damage to a City vehicle, a City "Report of Accident/Property Damage" form shall be completed and forwarded to the appropriate Division Captain.

Photographs of the collision scene and vehicle damage shall be taken at the discretion of the traffic investigator or any supervisor.

### 502.4.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENT EMPLOYEES

When an employee of this department, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the City, the on-duty supervisor or watch commander should assign an uninvolved Palo Alto Police officer to take the report. In the event such collision involves a fatality, serious injury, or other extenuating circumstance, the patrol lieutenant may request that the California Highway Patrol or a neighboring agency investigate the collision.

The term serious injury is defined as any injury that may result in a fatality.

### 502.4.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS

When a City official or employee, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the City, the on-duty supervisor or watch commander should assign an uninvolved Palo Alto Police officer to take the report. In the event such collision involves a fatality, serious

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injury, or other extenuating circumstance, the patrol lieutenant may request that the California Highway Patrol or a neighboring agency investigate the collision.

The term serious injury is defined as any injury that may result in a fatality.

### 502.4.4 TRAFFIC COLLISIONS ON PRIVATE PROPERTY

Traffic Collisions occurring on private property shall be investigated as an "Investigation" as listed in Policy Manual § 502.33:

(a) If there is a fatality or an injury which requires transportation to a hospital;

(b) If there is a violation of Vehicle Code § 20001 and/or sufficient information is available to warrant follow-up and/or prosecution;

Traffic collisions occurring on private property shall be investigated as a "Report" as listed in Policy Manual § 502.34;

(a) If there is an injury not requiring transportation to a hospital;

(b) All other private property collisions require no police report.

### 502.4.5 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS

Traffic collision reports shall be taken when they occur on a roadway or highway within the jurisdiction of this department under any of the following circumstances:

(a) When there is a death or injury to any persons involved in the collision

(b) When a report is requested by any involved driver

## 502.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION

In the event of a traffic collision involving a serious injury and/or death, the Watch Commander shall notify the Traffic Division Lieutenant, or in his or her absence, the Traffic Division Sergeant, to relate the circumstances of the traffic collision and seek assistance from the Traffic Division. In the absence of the Traffic Division Lieutenant, the Watch Commander or any supervisor may assign a Specialized Traffic Accident Reconstruction (STAR) Team member or motor officer to investigate the traffic collision.

## 502.6 FATAL TRAFFIC COLLISION INVESTIGATION

The investigation of fatal traffic collisions has become a complex and highly technical field. It is the desire of the Palo Alto Police Department to train officers in the investigation of traffic collisions and reconstruction so they can best determine the cause of collisions and provide expert evidence for prosecution when necessary.

### 502.6.1 POLICY

It shall be the policy of the Palo Alto Police Department to insure quality investigation by training and maintaining the Specialized Traffic Accident Reconstruction (STAR) Team. The STAR Team may be called to aid in the investigation to determine the cause of a collision and make recommendations based upon their findings.

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The role of the STAR Team is to provide their expertise at the scene of a major traffic collision. They will act as a resource in the analysis, measurement, calculation of physical evidence needed to determine speed, area(s) of impact, and to give advice in investigative procedures. The team members shall diagram the scene and provide support to the investigation as directed by the scene supervisor. Unless relieved of responsibility, the patrol officer(s) shall maintain responsibility of the investigation with assistance from the STAR Team members.

### 502.6.2 TEAM COMPOSITION AND TRAINING

The members of the STAR Team shall consist of one supervisor, and officers or agents who have successfully completed the required training. The Traffic Lieutenant will act as the coordinator for the team and will select a team supervisor. The length of service on the team will be determined by the Traffic Lieutenant.

Each member shall attend the below listed training courses and maintain their expertise by quarterly training meetings:

(a) Basic Investigation 40600 CVC course (40 hours);

(b) Intermediate Accident Investigation (40 hours);

(c) Advanced Accident Investigation (80 hours);

(d) Reconstruction School (80 hours);

### 502.6.3 CALL-UP PROCEDURES

(a) Roster:

1. Communications shall have a current roster of all STAR Team members, their addresses, home telephone numbers, and shift assignments.

(b) Notification and Coordination:

1. The on-duty supervisor shall notify the STAR Team in cases of fatal or major injury collisions. The team may be used in the event of a collision of unusual circumstance, for example, City liability, or involved City personnel.

(c) Call-up: Communications shall maintain a call-up list of the STAR Team members and at the direction of the on-duty supervisor, shall be responsible for calling members back to duty. On-duty members will be called via radio by the supervisor.

1. The STAR Team supervisor will be called to assign the required number of off-duty members;

2. The Field Services Division Captain shall always be apprised of the incident.

### 502.6.4 INVESTIGATION PROCEDURE

(a) Field Services Division: The officer assigned to investigate the collision shall be responsible for immediately preserving the scene and notifying his/her supervisor.

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The officer shall write the collision report according to the traffic collision investigation policy;

(b) STAR Team: Members shall respond and make a factual diagram and proceed with post collision follow-up. They will provide additional resources for the scene investigation and report to the scene supervisor.

## 502.7 OFFICER INVOLVED TRAFFIC COLLISIONS

### 502.7.1 PROCEDURE

**All officer involved traffic collisions** will be reported immediately to the on-duty supervisor and watch commander. The involved officer shall, barring extenuating circumstances, remain at the scene of the collision pending the arrival of a supervisor. For collisions occurring within the jurisdiction of the City of Palo Alto, the on-duty supervisor or watch commander should assign an uninvolved Palo Alto Police Officer to take the report. In the event such collision involves a fatality, serious injury, or other extenuating circumstance, the patrol lieutenant may request that the California Highway Patrol or a neighboring agency investigate the collision.

The term serious injury is defined as any injury that may result in a fatality.

### 502.7.2 INTERNAL INVESTIGATION

**Report of Property Damage/Loss** - All traffic collisions involving City property shall be documented with the City "Report of Accident/Property Damage" form. The on-duty supervisor will review the actions of the employee and determine if the collision was "preventable" or "non-preventable."

**Private Vehicles** - When involved in a traffic collision with a private vehicle, it is necessary to complete a "Damage to City Property" form and obtain the involved parties insurance information. It is also necessary to obtain photographs of any and all damage to private property, private vehicles, and to City vehicles involved in these collisions to aid the City Risk Manager in their job.

**Supervisor Responsibilities** - The investigating supervisor will write a memorandum to his/her manager indicating findings, the employee's collision history and recommended action to be taken with the employee.

**Corrective Action** - If the traffic collision was preventable, the supervisor will determine if/when the employee had other preventable collisions in the past. A written reprimand or suspension from duty without pay (or more severe discipline) may be applicable in repetitive or serious cases.

**Personnel and Training Master File** - Personnel and Training will maintain a master "Traffic Collisions" file. Copies of the traffic collision related documents will be routed to Personnel and Training via the respective Division Captain/Coordinator. Accidents will also be tracked via the IA PRO computer management system.

**Driving Instructor** - A Department Driving Instructor will review the traffic collision investigation/ report in order to develop a training plan for the involved employee, if necessary.

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# Vehicle Towing and Release

## 510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Palo Alto Police Department. Nothing in this policy shall require the Department to tow a vehicle.

## 510.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

### 510.2.1 VEHICLE STORAGE REPORT

Department members requesting towing, storage or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should to be given to the tow truck operator and the original shall be submitted to the Technical Services Division as soon as practicable after the vehicle is stored.

### 510.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in the Communications Center.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the official towing garage for the City of Palo Alto. The officer will then store the vehicle using a CHP Form 180.

### 510.2.3 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high crime area).

The vehicle should be towed pursuant Vehicle Code § 22651(h) if the vehicle is unlawfully parked, could pose a traffic hazard to other vehicles. A notation articulating your reason for the tow will

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be made on the CHP 180. The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases the owner shall be informed that the Department will not be responsible for theft or damages.
- The driver shall sign the Palo Alto Police Department waiver form, which will be included in any applicable reports. If the driver refuses to sign the waiver, a notation will be made in the arrest report.

### 510.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver's license and current vehicle registration.

### 510.2.5 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

### 510.2.6 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

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When there is no preferred company requested, the dispatcher shall call the next firm in rotation from the list of approved towing companies and shall make appropriate entries on that form to ensure the following firm is called on the next request.

510.2.7 TECHNICAL SERVICES DIVISION RESPONSIBILITY
Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Watch Commander for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Technical Services Division to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); Vehicle Code § 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

(a) The name, address, and telephone number of this Department.

(b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.

(c) The authority and purpose for the removal of the vehicle.

(d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice.

## 510.3 TOWING SERVICES

The City of Palo Alto periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

(a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.

(b) When a vehicle is being held as evidence in connection with an investigation.

(c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal from the streets of vehicles obstructing traffic in violation of state or local regulations.

(d) When a citizen needs towing but has "no preference" as to which service to call

Officers are specifically prohibited from directly or indirectly soliciting for or recommending any garage or tow service.

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Any complaint alleging a violation of the agreement or other conduct by a "no preference" operator shall be referred to the Police Department for investigation. The Department may periodically review the performance of each authorized "No Preference" operator.

### 510.4 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the CHP 180. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

### 510.5 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) which are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

### 510.6 RELEASE OF VEHICLE

The Department will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

(a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3 and Vehicle Code § 22850.5).

(b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3 and Vehicle Code § 22850.5).

(c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license and applicable fees paid prior to the end of the 30-day impoundment period if the vehicle was stolen, if the driver reinstates his/her driver's license, if the driver acquires a license and proper insurance, or under other circumstances as set forth in Vehicle Code § 14602.6.

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## *Vehicle Towing and Release*

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

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# Vehicle Impound Hearings

## 512.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

## 512.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Palo Alto Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

### 512.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). A Sergeant or Agent will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code §14602.6(b); Vehicle Code § 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code § 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations

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where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

(a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.

1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.

(b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).

(c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Division Captain. The hearing officer will recommend to the appropriate Division Captain that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

**512.3 POLICY ISSUE DATE**
06-26-16

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# Impaired Driving

## 514.1 PURPOSE AND SCOPE

This policy provides guidance to those [department/office] members who play a role in the detection and investigation of driving under the influence (DUI).

## 514.2 POLICY

The Palo Alto Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

## 514.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

## 514.4 FIELD TESTS

The Traffic Lieutenant should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of DUI laws.

## 514.5 CHEMICAL TESTS

A person implies consent to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle Code § 23612):

(a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.

(b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).

(c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).

(d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

### 514.5.1 CHOICE OF TESTS

Officers shall respect a viable choice of chemical test made by an arrestee, as provided for by law (e.g., breath will not be acceptable for suspected narcotics influence).

A person arrested for DUI has the choice of whether the test is of his/her blood or breath, and the officer shall advise the person that he/she has that choice. If the person arrested either is

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incapable, or states that he/she is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

### 514.5.2 BREATH SAMPLES

The Traffic Lieutenant should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Lieutenant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug. Evidence of the officer's belief shall be included in the officer's report (Vehicle Code § 23612(a)(2)(C)).

### 514.5.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Vehicle Code § 23158). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

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### 514.5.5 STATUTORY NOTIFICATIONS

Officers requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

### 514.5.6 PRELIMINARY ALCOHOL SCREENING

Officers may use a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The officer shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, he/she shall be advised that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

### 514.5.7 PRELIMINARY ALCOHOL SCREENING FOR A PERSON UNDER AGE 21

If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of his/her blood, breath or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

## 514.6 REFUSALS

When an arrestee refuses to provide a viable chemical sample, officers should:

(a) Advise the arrestee of the requirement to provide a sample (Vehicle Code § 23612).

(b) Audio- and/or video-record the admonishment when it is practicable.

(c) Document the refusal in the appropriate report.

### 514.6.1 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

(a) A search warrant has been obtained (Penal Code § 1524).

(b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person’s bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

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### 514.6.2 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

(a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.

(b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.

(c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.

1. This dialogue should be recorded on audio and/or video if practicable.

(d) Ensure that the blood sample is taken in a medically approved manner.

(e) Ensure the forced blood draw is recorded on audio and/or video when practicable.

(f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:

1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.

2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.

3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.

(g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

### 514.6.3 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the arrestee and take possession of any state-issued license to operate a motor vehicle that is held by that individual (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

## 514.7 TECHNICAL SERVICES DIVISION RESPONSIBILITIES

The Records Manager will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney’s office.

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## 514.8 ADMINISTRATIVE HEARINGS

The supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Officers called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified. The Technical Services Division should forward this to the Court Liaison as part of the case file.

## 514.9 TRAINING

The Personnel and Training Lieutenant should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Personnel and Training Lieutenant should confer with the prosecuting attorney's office and update training topics as needed.

## 514.10 ARREST AND INVESTIGATION

### 514.10.1 WARRANTLESS ARREST

In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

(a) The person is involved in a traffic accident.

(b) The person is observed in or about a vehicle that is obstructing the roadway.

(c) The person will not be apprehended unless immediately arrested.

(d) The person may cause injury to him/herself or damage property unless immediately arrested.

(e) The person may destroy or conceal evidence of a crime unless immediately arrested.

### 514.10.2 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

(a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).

(b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.

(c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

## 514.11 POLICY ISSUE DATE

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# Traffic Citations

## 516.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

## 516.2 RESPONSIBILITIES

The Traffic Lieutenant shall be responsible for the development and design of all [Department/ Office] traffic citations in compliance with state law and the Judicial Council.

The Technical Services Division shall be responsible for the supply and accounting of all traffic citations issued to employees of this [department/office].

## 516.3 DISMISSAL OF TRAFFIC CITATIONS

It is the policy of the Department for officers to not dismiss traffic citations without a valid reason. The only valid reason is when the citation has been written in error. If the officer has a valid reason to dismiss a citation, he/she should do the following:

(a) Complete the dismissal of citation portion of the Traffic Court Notification Form;

(b) Obtain his/her supervisor's approval and signature on the form;

(c) The citation dismissal shall then be forwarded to the Field Services Division Captain for review

(d) The Traffic Court Notification Form should be returned to the Court Liaison Officer as soon as possible.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate, the officer may request the court to dismiss the citation. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required.

## 516.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Traffic Division Supervisor.

## 516.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be forwarded to the Court Liaison Officer. The Court Liaison Officer shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.

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## 516.6 DISPOSITION OF TRAFFIC CITATIONS

The court and file copies of all traffic citations issued by members of this [department/office] shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be filed with the Technical Services Division.

Upon separation from employment with this [department/office], all employees issued traffic citation books shall return any unused citations to the Technical Services Division.

## 516.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

### 516.7.1 APPEAL STAGES

Appeals may be pursued sequentially at three different levels (Vehicle Code § 40215; Vehicle Code § 40230):

(a) Administrative reviews are conducted by the Traffic Division or designeewho will review written/documentary data. Requests for administrative reviews are available at the front desk or Traffic Bureau of the Palo Alto Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.

(b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.

(c) If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to the Superior Court of California.

### 516.7.2 TIME REQUIREMENTS

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

(a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking Violation (Vehicle Code § 40215(a)).

(b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).

(c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 - 40225. The person requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).

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(d) Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209; Vehicle Code § 40210).

516.7.3 COSTS

(a) There is no cost for an administrative review.

(b) Appellants must deposit the full amount due for the citation before receiving an administrative hearing, unless the person is indigent, as defined in Vehicle Code § 40220, and provides satisfactory proof of inability to pay (Vehicle Code § 40215).

(c) An appeal through Superior Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

## 516.8 JUVENILE CITATIONS

The Records Unit will process all juvenile traffic citations. The Records Unit will retain the pink copy and the white copy of the citation will be forwarded to the Court Liaison Officer. The Court Liaison Officer will track all juvenile citations that are sent to the juvenile court.

### 516.8.1 JUVENILE BICYCLE CITATIONS

The Records Unit will also process juvenile bicycle citations. The Records Unit will check the Records Management System to see if the citation is the juvenile's first violation. If it is the juvenile's first offense, the Records Unit will forward a copy of the original citation to the Traffic Division Secretary. All first offense juvenile bicycle violators will be eligible for the Fire Department's Bicycle Safety Course. The Traffic Division Secretary is responsible for tracking all citations that have been deferred to the Fire Department on a computerized database. The date the citation was issued and the date the citation was forwarded to the Fire Department will be noted along with the citation number and the juvenile's last name and first initial. The Traffic Division Secretary will forward all (first offense) juvenile bicycle citations to the Fire Department's Bicycle Safety Coordinator for disposition. The Traffic Division Secretary will also mail a letter to the juvenile violator advising him/her that the citation was forwarded to the Fire Department.

The Fire Department's Bicycle Safety Coordinator will advise the Traffic Division Secretary when a class was held and provide a list of the juveniles that attended the course. The Traffic Division Secretary's computerized database will be updated to indicate that the juvenile completed the course. The Traffic Division Secretary will then forward the information to the Records Unit so that RMS can be updated with the date the juvenile attended the class.

A juvenile is only eligible to attend the Bicycle Safety Course once within a year's period. Any citation received for the same juvenile within this time period will be forwarded to juvenile court by the Court Liaison Officer.

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## 516.9 REFUSAL TO SIGN TRAFFIC CITATION

When a violator refuses to sign the notice to appear, a supervisor shall be called to the location of the stop to assist in obtaining the violator's signature. If the violator continues to refuse to sign the notice to appear, or demands to be taken before a magistrate, he/she will be taken into custody.

Persons taken into custody under the authority of Vehicle Code § 40302(b)-refusal to sign citation, shall be afforded every opportunity permitted by law to sign the notice to appear and secure release. If at anytime during the course of the incident, but prior to the booking process the violator reconsiders and requests to sign the notice to appear, he/she shall be permitted to do so and shall be transported back to the location of the stop.

If the arrest occurs during court hours, the violator shall be taken to the North County clerk's office where an immediate appearance before a magistrate shall be arranged. The clerk's office shall be notified, by phone, prior to the officer's arrival. The violator may elect to post bail at the clerk's office, in lieu of an appearance before a magistrate.

If the arrest occurs outside of normal court hours, the violator shall be transported without delay to jail. Once the booking has begun, the violator is in the custody of the Santa Clara County Department of Corrections and can no longer be released by the arresting officer.

Under special circumstances (i.e. elderly, confused, disoriented or sick persons), the supervisor may direct the officer to release the violator and request a complaint to be filed. This should occur if a physical arrest would result in unnecessary alienation or injury to the violator and incarceration would serve no other useful purpose.

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# Disabled Vehicles

## 520.1 PURPOSE AND SCOPE

Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

## 520.2 OFFICER RESPONSIBILITY

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

## 520.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of departmental resources, and the vulnerability of the disabled motorist.

### 520.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

### 520.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

### 520.3.3 RELOCATION OF DISABLED MOTORIST

The relocation of a disabled motorist should only occur with the person’s consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

## 520.4 PUBLIC ACCESS TO THIS POLICY

This written policy is available upon request.

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# 72-Hour Parking Violations

## 524.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code § 22652.6 and 22669, and Palo Alto Municipal Code §10.36.030.

## 524.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Palo Alto 72-Hour Parking Ordinance shall be marked and noted on the Palo Alto Police Department Marked Vehicle Card. No case number is required at this time.

A visible chalk mark should be placed on the left rear tire tread at the fender level unless missing tires or other vehicle conditions prevent marking. Any deviation in markings shall be noted on the Marked Vehicle Card. The investigating employee should make a good faith effort to notify the owner of any vehicle subject to towing prior to having the vehicle removed. This may be accomplished by personal contact, telephone or by leaving notice attached to the vehicle at least 24 hours prior to removal.

All Marked Vehicle Cards shall be submitted to the Traffic Bureau for computer data entry.

If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle shall be marked again for the 72-hour parking violation and a Marked Vehicle Card completed and forwarded to the Traffic Bureau.

Parking citations for the 72-hour parking ordinance can be issued when the vehicle is stored for the 72-hour parking violation.

### 524.2.1 MARKED VEHICLE FILE

The Traffic Division shall be responsible for maintaining a file for all Abandoned Vehicle Forms.

Parking control officers assigned to the Traffic Division shall be responsible for the follow up investigation of all 72-hour parking violations noted on the Abandoned Vehicle Forms.

### 524.2.2 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report (CHP form 180) shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Technical Services Division immediately following the storage of the vehicle. It shall be the responsibility of the Technical Services Division to immediately notify the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento ( Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Technical Services Division to determine the names and addresses of any

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individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).

### 524.3 VEHICLE DISPOSAL

If, after 15 days from the notification, the vehicle remains unclaimed and the towing and storage fees have not been paid, and if no request for a post storage hearing has been made, the Department may provide the lien holder storing the vehicle with authorization on an approved DMV form to dispose of any vehicle which the lien holder has determined has an estimated value of $500 or less (Vehicle Code § 22851.3(h)).

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# Chapter 6 - Investigation Operations

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# Investigation and Prosecution

## 600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

## 600.2 INITIAL INVESTIGATION

### 600.2.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

(a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
    1. An initial statement from any witnesses or complainants.
    2. A cursory examination for evidence.

(b) If information indicates a crime has occurred, the officer shall:
    1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
    2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
    3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Watch Commander.
    4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
    5. Collect any evidence.
    6. Take any appropriate law enforcement action.
    7. Complete and submit the appropriate reports and documentation.

(c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

### 600.2.2 CIVILIAN MEMBER RESPONSIBILITIES

A civilian member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

## 600.3 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that

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computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

### 600.4 DISCONTINUATION OF INVESTIGATIONS

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

(a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.

(b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.

1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.

2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.

(c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.

(d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted, or requested, and there is no need to take the suspect into custody.

(e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted, or requested.

(f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Violence, Child Abuse Sexual Assault Investigations, and Senior and Disability Victimization policies may also require an arrest or submittal of a case to a prosecutor.

### 600.5 MODIFICATION OF CHARGES FILED

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Division Captain or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

### 600.6 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

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### 600.6.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Investigative Services supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

### 600.6.2 MANDATORY RECORDING OF ADULTS

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(b) The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated or another individual. Such circumstances shall be documented in a report.

(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

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(h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

The [Department/Office] shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

## 600.7 POLICY

It is the policy of the Palo Alto Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

## 600.8 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights, and civil liberties. Information gathered via the internet should only be accessed by members while on-duty and for purposes related to the mission of this [department/office]. If a member encounters information relevant to a criminal investigation while off-duty or while using the member's own equipment, the member should note the dates, times, and locations of the information and report the discovery to the member's supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using [department/office] equipment.

Information obtained via the internet should not be archived or stored in any manner other than [department/office]-established record keeping systems (see the Records Maintenance and Release and the Criminal Organizations policies).

### 600.8.1 ACCESS RESTRICTIONS

Information that can be accessed from any [department/office] computer, without the need of an account, password, email address, alias, or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

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Information gathered from any internet source should be evaluated for its validity, authenticity, accuracy, and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

600.8.2 INTERCEPTING ELECTRONIC COMMUNICATION

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

## 600.9 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

The Investigative Services Division Captain is responsible for ensuring the following for cellular communications interception technology operations (Government Code § 53166):

(a) Security procedures are developed to protect information gathered through the use of the technology.

(b) A usage and privacy policy is developed that includes:

1. The purposes for which using cellular communications interception technology and collecting information is authorized.
2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.
3. Training requirements necessary for those authorized employees.
4. A description of how the [Department/Office] will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.
5. Process and time period system audits.
6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.
7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.
8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall only use approved devices and usage shall be in compliance with [department/office] security procedures, the [department/office]'s usage and privacy procedures and all applicable laws.

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## 600.10 USE OF CERTAIN DNA SAMPLES

Known samples of DNA collected from a victim of a crime or alleged crime, and known reference samples of DNA from any individual that were voluntarily provided for the purpose of exclusion are to be used only for the purpose directly related to the incident being investigated and in compliance with the procedures identified in Penal Code § 679.12.

## 600.11 STATE REQUIREMENTS FOR FIREARM INVESTIGATIONS

### 600.11.1 CALIFORNIA DOJ NOTICE OF LOCATION OF REPORTED LOST OR STOLEN FIREARM

When notification is received from the California Department of Justice (DOJ) that a firearm purchase matches an entry made into the Automated Firearms System by the [Department/Office] as lost or stolen, the Investigative Services supervisor shall assign an officer to retrieve the firearm and book the firearm into evidence in accordance with the Property and Evidence Policy. Recovery of the firearm shall be reported pursuant to Penal Code § 11108.2, Penal Code §11108.3, and Penal Code § 11108.5. If appropriate, arrangements may be made to have another state or local law enforcement agency retrieve the firearm on behalf of the [Department/Office] (Penal Code § 28220).

### 600.11.2 RELINQUISHMENT OF FIREARMS VERIFICATION

The Investigative Services supervisor shall designate a member to have access to the Armed Prohibited Persons System (APPS) to receive information regarding individuals in the jurisdiction of the [Department/Office] who have become a prohibited possessor of a firearm registered in their name and have not provided proof of relinquishment. The member shall document steps taken to verify that the individual is no longer in possession of firearms and provide the information to the Technical Services Division for preparation of a quarterly report to the California DOJ (Penal Code § 29813) (see the Technical Services Division Policy for additional guidance).

## 600.12 ANTI-REPRODUCTIVE RIGHTS CRIMES

A member should take a report any time a person living within the jurisdiction of the Palo Alto Police Department reports that the person has been a victim of an anti-reproductive rights crime as defined by Penal Code § 13776 and Penal Code § 423.3. This includes:

(a) Taking a report, even if the location of the crime is outside the jurisdiction of this [department/office] or has not been determined (e.g., online harassment).

(b) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Members should encourage the person to review the material and should assist with any questions.

A report should also be taken if a person living outside [department/office] jurisdiction reports an anti-reproductive rights crime that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in the [city/county] to facilitate the crime).

A member investigating an anti-reproductive rights crime should ensure that the case is referred to the appropriate agency if it is determined that this [department/office] should not be the

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investigating agency. The victim should be advised that the case is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for [department/office] use and are specific to this type of investigation.

The Investigative Services supervisor should provide the Records Manager with enough information regarding the number of calls for assistance and number of arrests to meet the reporting requirements to the California Department of Justice as required by Penal Code § 13777. See the Technical Services Division Policy for additional guidance.

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# Sexual Assault Investigations

## 602.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Senior and Disability Victimization policies.

Palo Alto Police Procedure Manual: 101.1 Child Abuse County Protocol

Palo Alto Police Procedure Manual: 103.1 Elder and Dependent Adult 2010 County Protocol

### 602.1.1 DEFINITIONS

Definitions related to this policy include:

**Sexual assault** - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

**Sexual Assault Response Team (SART)** - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

## 602.2 POLICY

It is the policy of the Palo Alto Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

## 602.3 TRAINING

Subject to available resources, periodic training should be provided to:

(a) Members who are first responders. Training should include:

1. Initial response to sexual assaults.
2. Legal issues.
3. Victim advocacy.
4. Victim’s response to trauma.
5. Proper use and handling of the California standardized SAFE kit (Penal Code § 13823.14).

(b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:

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1. Interviewing sexual assault victims.
2. SART.
3. Medical and legal aspects of sexual assault investigations.
4. Serial crimes investigations.
5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
6. Techniques for communicating with victims to minimize trauma.

### 602.4 REPORTING

In all reported or suspected cases of sexual assault, a report should be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

### 602.5 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

(a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.

(b) Conduct follow-up interviews and investigation.

(c) Present appropriate cases of alleged sexual assault to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.

(e) Provide referrals to therapy services, victim advocates and support for the victim.

(f) Participate in or coordinate with SART.

### 602.6 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Investigative Services supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

### 602.7 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to the Communications Center, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

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Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

### 602.7.1 VICTIM RIGHTS

Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

(a) Prior to the commencement of the initial interview, advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, about any other rights of a sexual assault victim pursuant to the sexual assault victim card described in Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).

(b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).

    1. The officer shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).

    2. A support person may be excluded from the examination by the officer or the medical provider if the support person's presence would be detrimental to the purpose of the examination (Penal Code § 264.2).

### 602.7.2 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code § 293).

Except as authorized by law, members of this Department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

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## 602.8 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately (Penal Code § 680).

### 602.8.1 COLLECTION AND TESTING REQUIREMENTS

Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned officer determines that a SAFE kit submitted to a private vendor laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to update the status every 120 days thereafter until the testing is complete, the statute of limitations has run, or the SAFE kit is exempt from the update requirement (Penal Code § 680.3).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned officer shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18-month period (Penal Code § 680).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

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### 602.8.2 DNA TEST RESULTS

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

(a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).

  (a) Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

  (b) Absent a written request, no member of this Department is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.

(b) Sexual assault victims shall further have the following rights (Penal Code § 680):

  1. To be informed if a DNA profile of the assailant was obtained from the testing of the SAFE kit or other crime scene evidence from their case.

  2. To be informed if there is a confirmed match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.

  3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank or the federal Department of Justice or Federal Bureau of Investigation CODIS database of case evidence.

  4. To access the DOJ SAFE-T database portal consistent with Penal Code § 680.3(e) for information involving their own forensic kit and the status of the kit.

(c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned officer informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).

  1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

  2. No officer shall be required or expected to release any information which might impede or compromise any ongoing investigation.

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602.8.3 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT
The Property and Evidence Section supervisor should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

602.8.4 COLLECTION OF DNA REFERENCE SAMPLES
Reference samples of DNA collected directly from a victim of sexual assault, and reference samples of DNA collected from any individual that were voluntarily provided for the purpose of exclusion, shall be protected as provided in Penal Code § 679.12 (Penal Code § 680).

602.8.5 NON-TESTING OF SAFE KITS
Sexual assault survivors 18 years or older may be undecided at the time of the medical examination whether to report the sexual assault to law enforcement and may request that any collected medical evidence not be tested. If such a request is made, the medical facility is responsible for the transfer of the SAFE kit to the Palo Alto Police Department, if the Department is the investigating agency. The Department shall retain the SAFE kit until the sexual assault survivor requests testing (Penal Code § 680).

If the Department receives a request for non-testing after the examination and the SAFE kit has not already been submitted to a crime lab, the SAFE kit shall be retained by the Department. If the SAFE kit has been submitted to the crime lab, but DNA testing has not yet begun, the assigned officer shall notify the crime lab of the request, and the untested SAFE kit shall be returned to the Department and retained pursuant to Department protocols (Penal Code § 680).

A sexual assault survivor who initially requested that their SAFE kit not be tested may later request testing, regardless of whether they decide to make a report to law enforcement. The Investigative Services supervisor should ensure the SAFE kit is sent to the crime lab for testing (Penal Code § 680).

## 602.9 DISPOSITION OF CASES
If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Investigative Services supervisor.

Classification of a sexual assault case as unfounded requires the Investigative Services supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

## 602.10 CASE REVIEW
The Investigative Services supervisor should ensure case dispositions are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

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- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

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# Asset Forfeiture

## 606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

### 606.1.1 DEFINITIONS

Definitions related to this policy include:

**Fiscal agent** - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Palo Alto Police Department seizes property for forfeiture or when the Palo Alto Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

**Forfeiture reviewer** - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

**Property subject to forfeiture**- The following may be subject to forfeiture:

(a) Property related to a narcotics offense, which includes (Heath and Safety Code § 11470; Health and Safety Code § 11470.1):

1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors.

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(b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):

1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

**Seizure** -The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

## 606.2 POLICY

The Palo Alto Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the Palo Alto Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

## 606.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

### 606.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

(a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.

(b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):

1. The property subject to forfeiture is legally seized incident to an arrest.
2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing officer can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

Officers aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

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Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

606.3.2 PROPERTY NOT SUBJECT TO SEIZURE
The following property should not be seized for forfeiture:

(a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.

(b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).

(c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 11470A).

(d) Vehicles, boats or airplanes owned by an “innocent owner,” such as a common carrier with no knowledge of the suspected offense (Health and Safety Code § 11490).

## 606.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

(a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.

(b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.

(c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, “Seized Subject to Forfeiture.” Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real

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estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

### 606.5 MAINTAINING SEIZED PROPERTY

The Property and Evidence Section Supervisor is responsible for ensuring compliance with the following:

(a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.

(b) All property received for forfeiture is checked to determine if the property has been stolen.

(c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.

(d) Property received for forfeiture is not used unless the forfeiture action has been completed.

### 606.6 FORFEITURE REVIEWER

The Chief of Police will appoint an officer as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

(a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.

(b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.

(c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.

(d) Reviewing each seizure-related case and deciding whether the seizure is more appropriately made under state or federal seizure laws. The forfeiture reviewer should contact federal authorities when appropriate.

(e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.

(f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:

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1. Names and contact information for all relevant persons and law enforcement officers involved.
2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
3. A space for the signature of the person from whom cash or property is being seized.
4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.

(g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or Department Directives. The training should cover this policy and address any relevant statutory changes and court decisions.

(h) Reviewing each asset forfeiture case to ensure that:

1. Written documentation of the seizure and the items seized is in the case file.
2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property.
4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
6. Any cash received is deposited with the fiscal agent.
7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
8. Current minimum forfeiture thresholds are communicated appropriately to officers.
9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.

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(i) Ensuring that a written plan that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.

(j) Ensuring that the process of selling or adding forfeited property to the department's regular inventory is in accordance with all applicable laws and consistent with the department's use and disposition of similar property.

(k) Keeping a manual that details the statutory grounds for forfeitures and department procedures related to asset forfeiture, including procedures for prompt notice to interest holders, the expeditious release of seized property, where appropriate, and the prompt resolution of claims of innocent ownership (Heath and Safety Code § 11469).

(l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Heath and Safety Code §11471).

(m) Notifying the California Franchise Tax Board when there is reasonable cause to believe that the value of seized property exceeds $5,000.00 (Health and Safety Code § 11471.5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives (Health and Safety Code § 11495).

## 606.7 DISPOSITION OF FORFEITED PROPERTY

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Heath and Safety Code § 11469).

The Department may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

## 606.8 CLAIM INVESTIGATIONS

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and such ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

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# Informants

## 608.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

### 608.1.1 DEFINITIONS

Definitions related to this policy include:

**Informant** - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with, the Palo Alto Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Palo Alto Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

## 608.2 POLICE INVESTIGATIVE FUND (PIF)

The Police Investigative fund (PIF) is a cash fund available to cover certain costs incurred during investigations. The Captain of Investigative Services Division (ISD) is the custodian of these funds.

The ISD Captain and the two ISD Supervisors are the only personnel authorized to release the funds.

It is imperative that accurate bookkeeping procedures are used and the funds are spent for legitimate purposes.

### 608.2.1 PROCEDURE

The below listed procedures shall be followed when using the PIF:

(a) Division Captain and/or supervisors shall complete a voucher for each expenditure.

(b) All vouchers will contain the reason for use, a case number (when available), amount of expenditure, date and a signature of the officer and supervisor.

(c) An entry will be made in the ledger for each expenditure. Entries will include the date, officer, voucher number, case number, type of case, amount of expenditure, balance of cash on hand and the disposition of the funds.

(d) The officer, supervisor and Captain (if available) shall sign all vouchers.

(e) When the funds have been paid to the informant, two officers who had direct knowledge of the transaction shall sign the portion of the voucher which references the disposition of the funds.

(f) Expenditures over $100 must be approved by the Division Coordinator.

(g) Funds may be used for purchase of evidence, stolen property, narcotics or other contraband and payment to confidential informants (CI). All payments to informants shall be approved in advance. CIs will not be paid until the CI package is completed and signed by the CI. If the informant refuses to sign the completed CI package, no

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payment will be made. Payments to untested informants shall be approved by the supervisor or Division Coordinator.

(h) Funds will not be used for employee meals, film processing or equipment.

(i) When replenishment monies or donations are received from insurance companies, outside jurisdictions or other sources, a special notation will be made noting the amount and associated case number. All monies will be deposited into the City's General Fund.

(j) When an officer does not use the entire amount signed out for, the balance will be returned to the safe. The supervisor will complete a voucher (transaction type - credit). The officer and supervisor (or Division Coordinator if available), will sign the voucher (transaction type - credit) and the officer will retain a copy. The voucher (transaction type - credit) will reference the original voucher (transaction type - debit) and vice versa, and an appropriate entry will be made in the ledger.

(k) Money held for evidence will be recorded in the evidence ledger. When the money is returned to the fund, a voucher (transaction type '" credit) will be completed and the ledger will be updated at that time.

(l) Cash on hand shall not exceed $1,500 at any one time.

(m) When the cash on hand balance decreases to $300, the division administrative associate shall prepare a request for replenishment funds to be approved by the Captain and submitted to the Administrative Services Department. Accompanying the request will be the log of debits/credits. Copies of vouchers will be retained for division records.

(n) Loans to other law enforcement agencies shall be approved only the Division Coordinator.

(o) Any deviation from this procedure must be approved by the Division Coordinator.

(p) Revenue Collections will complete a random, annual cash count of the PIF. The PIF will also be subject to random audits by the City Auditor's Office.

## 608.3 POLICY

The Palo Alto Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this [department/ office] that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

## 608.4 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case

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- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant’s previous criminal activity
- The level of risk taken by the informant

The Investigative Services Division supervisor will discuss the above factors with the Field Services Division Captain and recommend the type and level of payment subject to approval by the Chief of Police.

### 608.4.1 AUDIT OF PAYMENTS

The Investigative Services Division supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief of Police or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

### 608.4.2 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

(a) Payments of $500 and under may be paid in cash from a Investigative Services Division buy/expense fund.

1. The Investigative Services Division supervisor shall sign the voucher for cash payouts from the buy/expense fund.

(b) Payments exceeding $500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.

1. The check shall list the case numbers related to and supporting the payment.
2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
4. Authorization signatures from the Chief of Police and the City Manager are required for disbursement of the funds.

(c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.

1. The cash transfer form shall include the following:
   (a) Date
   (b) Payment amount

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(c) Palo Alto Police Department case number

(d) A statement that the informant is receiving funds in payment for information voluntarily rendered.

2. The cash transfer form shall be signed by the informant.

3. The cash transfer form will be kept in the informant's file.

608.4.3 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed $600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as “other income” and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant’s file.

## 608.5 USE OF INFORMANTS

608.5.1 INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this [department/office] should not guarantee absolute safety or confidentiality to an informant.

608.5.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol, marijuana or tobacco products, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

(a) The juvenile’s parents or legal guardians

(b) The juvenile’s attorney, if any

(c) The court in which the juvenile’s case is being handled, if applicable (Penal Code § 701.5)

(d) The Chief of Police or the authorized designee

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608.5.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

The Santa Clara County District Attorney's Office must review the CI packet and give approval prior to using any informant.

## 608.6 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

(a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Division Captain, Investigative Services Division supervisor or their authorized designees.

1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.

(b) Criminal activity by informants shall not be condoned.

(c) Informants shall be told they are not acting as police officers, employees or agents of the Palo Alto Police Department, and that they shall not represent themselves as such.

(d) The relationship between [department/office] members and informants shall always be ethical and professional.

1. Members shall not become intimately involved with an informant.
2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Investigative Services Division supervisor.
3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.

(e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Investigative Services Division supervisor.

1. Officers may meet informants alone in an occupied public place, such as a restaurant.

(f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.

(g) In all instances when [department/office] funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.

(h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

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608.6.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the [Department/Office] and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file “unsuitable” when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

(a) The informant has provided untruthful or unreliable information in the past.

(b) The informant behaves in a way that may endanger the safety of an officer.

(c) The informant reveals to suspects the identity of an officer or the existence of an investigation.

(d) The informant appears to be using his/her affiliation with this [department/office] to further criminal objectives.

(e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.

(f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.

(g) The informant commits criminal acts subsequent to entering into an informant agreement.

## 608.7 INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of [department/office] members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Investigative Services Division. The Investigative Services Division supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Division Captain, Investigative Services Division supervisor or their authorized designees.

The Investigative Services Division Captain should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Investigative Services Division supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

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### 608.7.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

(a) Name and aliases

(b) Date of birth

(c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features

(d) Photograph

(e) Current home address and telephone numbers

(f) Current employers, positions, addresses and telephone numbers

(g) Vehicles owned and registration information

(h) Places frequented

(i) Briefs of information provided by the informant and his/her subsequent reliability

1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.

(j) Name of the officer initiating use of the informant

(k) Signed informant agreement

(l) Update on active or inactive status of informant

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# Eyewitness Identification

## 610.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this Department employ eyewitness identification techniques (Penal Code § 859.7).

### 610.1.1 DEFINITIONS

Definitions related to the policy include:

**Eyewitness identification process** - Any field identification, live lineup or photographic identification.

**Field identification** - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

**Live lineup** - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

**Photographic lineup** - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

## 610.2 POLICY

This department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

Santa Clara County Protocols Section 7 - Line-Up Protocol for Law Enforcement shall be utilized as a guideline when conducting photographic or live lineups (Jail). All personnel are required to read and follow Santa Clara County Protocols Section 7 - Line-Up Protocol for Law Enforcement.

Palo Alto Police Procedure Manual: Line Up County Protocol

## 610.3 INTERPRETIVE SERVICES

Officers should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

## 610.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Investigative Services supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

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The process should include appropriate forms or reports that provide (Penal Code § 859.7):

(a) The date, time and location of the eyewitness identification procedure.

(b) The name and identifying information of the witness.

(c) The name of the person administering the identification procedure.

(d) If applicable, the names of all of the individuals present during the identification procedure.

(e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.

(f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.

(g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.

(h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.

(i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

(j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.

(k) Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

The process and related forms should be reviewed at least annually and modified when necessary.

### 610.5 EYEWITNESS IDENTIFICATION

Officers are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Officers should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

The eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures. When it is not feasible to make a recording with both audio and visual representations, an audio recording should be made (Penal Code § 859.7).

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### 610.5.1 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications.

Per the Santa Clara County Line-Up Protocol, if probable cause exists for an arrest, it is rarely advisable to conduct an in field identification instead of a line-up unless other factors outweigh the value of a line-up.

When initiating a field identification, the officer should observe the following guidelines:

(a) Obtain a complete description of the suspect from the witness.

(b) Assess whether a witness should be included in a field identification process by considering:

1. The length of time the witness observed the suspect.
2. The distance between the witness and the suspect.
3. Whether the witness could view the suspect's face.
4. The quality of the lighting when the suspect was observed by the witness.
5. Whether there were distracting noises or activity during the observation.
6. Any other circumstances affecting the witness's opportunity to observe the suspect.
7. The length of time that has elapsed since the witness observed the suspect.

(c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

(d) When feasible, officers should bring the witness to the location of the suspect, rather than bring the suspect to the witness.

(e) A person should not be shown to the same witness more than once.

(f) In cases involving multiple suspects, witnesses should only be permitted to view the suspects one at a time.

(g) A person in a field identification should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

## 610.6 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

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If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

610.6.1 DOCUMENTATION RELATED TO RECORDINGS
The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

610.6.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION
If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

## 610.7 POLICY UPDATES

Policy Updated: 5-3-17

Updated: 3-23-20

Updated: 4/20/22

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# Brady Material Disclosure

## 612.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

### 612.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** -Information known or possessed by the Palo Alto Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

## 612.2 POLICY

The Palo Alto Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Palo Alto Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

## 612.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

## 612.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady* information is located in the personnel file of a member of this department who is a material witness in a criminal case, the following procedure shall apply:

(a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the officer's personnel file.

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(b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in camera review by the court.

(c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.

(d) The Custodian of Records shall accompany all relevant files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.

(e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.

1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

612.4.1 OUT OF COUNTY ARRESTS AND CONVICTIONS

Santa Clara County Protocols Section 20 - Brady Protocol For Out Of County Arrests And Convictions shall be utilized as a guideline regarding the arrest or conviction of Palo Alto Police Department sworn personnel for a misdemeanor or felony offense which occurs outside of Santa Clara County. Personnel are required to read and follow the guidelines set forth in the Santa Clara County Protocols Section 20 - Brady Protocol For Out Of County Arrests And Convictions.

The Personnel & Training Coordinator is responsible for making notifications to the District Attorney's Office pursuant to the protocol.

## 612.5 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

## 612.6 TRAINING

Department members should receive periodic training on the requirements of this policy.

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# Warrant Service

## 613.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this [department/office]. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

## 613.2 POLICY

It is the policy of the Palo Alto Police Department to balance the safety needs of the public, the safety of [department/office] members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

## 613.3 OPERATIONS DIRECTOR

The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

## 613.4 SEARCH WARRANTS

Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

## 613.5 ARREST WARRANTS

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

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### 613.6 WARRANT PREPARATION

If an officer-deputy reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

An officer who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

(a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime or no-knock warrant execution.

(b) A clear explanation of the affiant's training, experience, and relevant education.

(c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.

(d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.

(e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.

(f) A specific description of the location to be searched, including photographs of the location, if reasonably available.

(g) A sufficient description of the items to be seized.

(h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

### 613.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

(a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.

(b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.

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(c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.

(d) Reasonable efforts are made during the search to maintain or restore the condition of the location.

(e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.

(f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).

(g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.

(h) A copy of the search warrant is left at the location.

(i) The condition of the property is documented with video recording or photographs after the search.

## 613.8 DETENTIONS DURING WARRANT SERVICE

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

## 613.9 ACTIONS AFTER WARRANT SERVICE

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

## 613.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities

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- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Palo Alto Police Department are utilized appropriately. Any concerns regarding the requested use of Palo Alto Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the Watch Commander should assume this role.

If officers intend to serve a warrant outside Palo Alto Police Department jurisdiction, the operations director should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Officers will remain subject to the policies of the Palo Alto Police Department when assisting outside agencies or serving a warrant outside Palo Alto Police Department jurisdiction.

### 613.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

### 613.12 TRAINING

The Personnel and Training Lieutenant should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

### 613.13 NO-KNOCK ENTRIES

No-knock entries are only authorized if a no-knock warrant has been obtained or if exigent circumstances arise at the scene such that knocking and announcing the officer's presence would create an imminent threat of physical violence to the officer or another person.

### 613.14 DOCUMENTATION

Documentation related to the service of a warrant shall be maintained in accordance with the established records retention schedule.

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# Operations Planning and Deconfliction

## 614.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

### 614.1.1 DEFINITIONS

Definitions related to this policy include:

**High-risk operations** - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

## 614.2 POLICY

It is the policy of the Palo Alto Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

## 614.3 OPERATIONS DIRECTOR

The Chief of Police will designate a member of this [department/office] to be the operations director.

The operations director will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

## 614.4 RISK ASSESSMENT

### 614.4.1 RISK ASSESSMENT FORM PREPARATION

Officers assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

The officer should gather available information that includes, but is not limited to:

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(a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.

(b) Maps of the location.

(c) Diagrams of any property and the interior of any buildings that are involved.

(d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).

(e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).

(f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).

(g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).

(h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

### 614.4.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

### 614.4.3 HIGH-RISK OPERATIONS

If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

(a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:

1. ([CRU])
2. Additional personnel
3. Outside agency assistance
4. Special equipment
5. Medical personnel
6. Persons trained in negotiation
7. Additional surveillance

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8. Canines
9. Property and Evidence Section or analytical personnel to assist with cataloguing seizures
10. Forensic specialists
11. Specialized mapping for larger or complex locations

(b) Contact the appropriate [department/office] members or other agencies as warranted to begin preparation.

(c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.

(d) Coordinate the actual operation.

## 614.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The officer who is the operations lead shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

## 614.6 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

(a) Operation goals, objectives, and strategies.

(b) Operation location and people:

1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces,

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availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids

3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)

4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties, and children

(c) Information from the risk assessment form by attaching a completed copy in the operational plan.

1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.

(d) Participants and their roles.

1. An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.

2. How all participants will be identified as law enforcement.

(e) Whether deconfliction submissions are current and all involved individuals, groups, and locations have been deconflicted to the extent reasonably practicable.

(f) Identification of all communications channels and call-signs.

(g) Use of force issues.

(h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).

(i) Plans for detaining people who are not under arrest.

(j) Contingencies for handling children, dependent adults, animals, and other people who might be at the location in accordance with the Child Abuse, Senior and Disability Victimization, Child and Dependent Adult Safety, and Animal Control policies.

(k) Communications plan.

(l) Responsibilities for writing, collecting, reviewing, and approving reports.

#### 614.6.1 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

## 614.7 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

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(a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.

(b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.

(c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.

1. Exceptions may be made by the operations director for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.

(d) The briefing should include details of the communications plan.

1. It is the responsibility of the operations director to ensure that the Communications Center is notified of the time and location of the operation, and to provide a copy of the operation plan prior to officers arriving at the location.

2. If the radio channel needs to be monitored by the Communications Center, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.

3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

## 614.8 [CRU] PARTICIPATION

If the operations director determines that [CRU] participation is appropriate, the director and the [CRU] supervisor shall work together to develop a written plan. The [CRU] supervisor shall assume operational control until all persons at the scene are appropriately detained and it is safe to begin a search. When this occurs, the [CRU] supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

## 614.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

## 614.10 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any [CRU] debriefing.

## 614.11 TRAINING

The Personnel and Training Lieutenant should ensure officers and [CRU] team members who participate in operations subject to this policy should receive periodic training including, but not

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limited to, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

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# Forensic Genetic Genealogy

## 615.1 PURPOSE AND SCOPE

This policy provides guidance for the use of forensic genetic genealogy (FGG) to generate investigative leads.

### 615.1.1 DEFINITIONS

Definitions related to this policy include:

**Combined DNA Index System (CODIS)** - An FBI computer software program that operates deoxyribonucleic acid (DNA) profile databases for law enforcement use.

**DNA typing laboratory** - A laboratory that analyzes biological samples, including extracted DNA, in order to provide various DNA profile types. State or local crime labs are generally not equipped to provide single nucleotide polymorphism (SNP) DNA profiles; therefore, the use of private DNA typing laboratories is often necessary for FGG.

**Extracted DNA** - The DNA isolated from a biological sample remaining after previous DNA testing has been completed.

**Forensic genetic genealogy (FGG)** - The process of obtaining a SNP DNA profile from a biological sample collected during an investigation; uploading the profile to a genetic genealogy site for comparison to the consumer profiles in the site's database to identify genetic relatives; and using the identified genetic relationships, as well as traditional genealogy research, to generate investigative leads.

**Genetic genealogist** - A genealogist who uses DNA testing with traditional genealogical research methods to assist law enforcement or private clients in identifying biological relatives of an individual.

**Genetic genealogy site** - A database of DNA profiles voluntarily submitted by public consumers for the purpose of identifying genetic relatives. The availability of genetic genealogy sites for law enforcement use varies depending on their terms of service.

**Short tandem repeat (STR) DNA profile** - The results of DNA typing in a format that can be processed through CODIS and state DNA databases. This is the type of DNA used in conventional non-FGG law enforcement investigations.

**Single nucleotide polymorphism (SNP) DNA profile** - The results of DNA typing in a format that enables an unknown DNA sample to be compared to the DNA profiles maintained by a genetic genealogy site. This is the DNA type used in FGG.

## 615.2 POLICY

The Palo Alto Police Department's use of FGG will be in coordination with prosecutors, the [Medical Examiner/JOP], and other appropriate resources only in qualifying cases after reasonable conventional investigative methods have been pursued. Members will take reasonable

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steps to maintain the integrity of the FGG process and safeguard the privacy rights of individuals whose DNA profiles are analyzed.

### 615.3 CRITERIA FOR FGG USE

Before using FGG, the lead investigator should coordinate with the supervisor to determine whether the case meets the following requirements:

(a) Biological evidence collected as part of the underlying investigation (or extracted DNA from the biological evidence) is available for additional testing and is reasonably believed to be attributable to:

1. The perpetrator of an unsolved violent felony.
2. The unidentified human remains of a suspected homicide victim.

(b) All reasonable conventional investigative methods have been utilized and all reasonable investigative leads have been pursued (e.g., relevant case information entered in the National Missing and Unidentified Persons System (NamUs) and the Violent Criminal Apprehension Program (ViCAP) national database).

(c) An STR DNA profile has been developed from the biological evidence collected in the case and, absent unusual circumstances, has been uploaded to CODIS and any applicable state DNA database for comparison with negative results.

### 615.4 COORDINATION

Once a preliminary determination has been made that a case may qualify for the use of FGG, the lead investigating member should consult with the appropriate prosecutor to address current and prospective legal issues and determine if a search warrant is required.

In the case of unidentified human remains, the lead investigator should also consult with the [Medical Examiner/JOP].

### 615.5 SUBMISSION OF SAMPLE

The biological evidence or extracted DNA should be submitted to a DNA typing laboratory approved by the [Department/Office] in order to obtain a SNP DNA profile.

Once a SNP DNA profile has been obtained from the biological evidence or extracted DNA, the lead investigating member should arrange for it to be compared to the SNP DNA profiles contained in one or more genetic genealogy sites to identify possible genetic relatives. The lead investigator should work with a qualified genetic genealogist as needed during this process.

When submitting a SNP DNA profile for comparison, the lead investigator or the authorized designee (e.g., assigned genetic genealogist) shall notify the genetic genealogy site that the request for comparison is from a law enforcement agency and confirm that the site's terms of service permit FGG for the type of case being investigated. The use of the SNP DNA profile and any subsequent comparison shall be limited to the original underlying investigation.

If at any time during the FGG process the case no longer meets the criteria for FGG use, the lead investigator should promptly notify the DNA typing laboratory, genetic genealogy site, and/or

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genetic genealogist to cease any further analysis and to return all evidence, data, and materials to the [Department/Office].

### 615.6 ANALYSIS OF FGG DATA

Once results of a comparison are received from a genetic genealogy site, the information should be evaluated by a genetic genealogist, who will assist the lead investigator in identifying potential investigative leads.

The lead investigator should promptly and diligently pursue each viable lead identified through the FGG process using traditional investigative methods, as appropriate, to:

(a) Eliminate an individual as a potential suspect in the case.

(b) Link an individual to the case as a potential suspect.

(c) Identify human remains.

### 615.7 COLLECTION OF THIRD-PARTY DNA SAMPLE

If it is determined that a third-party DNA sample (i.e., from a person not likely to be a suspect in the investigation) should be collected and analyzed for FGG, consent from the third party should be obtained prior to collection.

If there is a reasonable belief that the integrity of the investigation would be compromised by seeking consent from the third party prior to collection, the lead investigator should consult with the prosecutor regarding applicable laws and procedures in both the jurisdiction of the investigation and the jurisdiction where the collection will occur, if different.

The use of a third-party DNA sample shall be limited to the original underlying investigation.

### 615.8 POST-IDENTIFICATION

Members shall not rely solely on FGG identification of a potential suspect for probable cause to make an arrest or obtain an arrest warrant. Unless there is sufficient evidence independent of the FGG data to support an arrest, a potential suspect identified through FGG should not be arrested until the suspect's identity is confirmed.

Members shall not rely solely on FGG to identify human remains unless there is sufficient evidence independent of the FGG data to declare the identification or confirmation testing has been completed.

Confirmatory DNA testing should be conducted by collecting a known DNA sample from the potential suspect or, in the case of unidentified human remains, from a close biological relative. This known DNA sample should be submitted for comparison to the original unknown STR DNA profile through conventional methods (e.g., in CODIS).

The lead investigator should consult with the prosecutor to determine the appropriate method of obtaining a known DNA sample.

Once the identity of a suspect or the identity of unidentified human remains has been confirmed through conventional DNA testing, the lead investigator should:

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(a) Consult with the prosecutor to evaluate the entire investigative file for consideration of criminal charges or further investigation.

(b) If applicable, consult with the [Medical Examiner/JOP] for an amendment to a certificate of death.

## 615.9 PRIVACY CONSIDERATIONS

Members should make reasonable efforts to respect and protect the privacy of non-suspect genetic relatives identified through the FGG process. The names and identifying information of any non-suspect genetic relatives should not be included in official reports, probable cause declarations, or affidavits for search warrants and should not be disclosed unless otherwise required by law or court order.

The lead investigator should formally request that the SNP DNA profile be removed from all genetic genealogy sites upon identity confirmation and should retain a copy of the request for [department/office] records. The lead investigator should request that all case-related records and data provided to, or generated by, a genetic genealogist during the FGG process be returned to the [Department/Office].

## 615.10 RETENTION OF DNA SAMPLES AND RELATED RECORDS

Genetic information, including any derivative profiles and genetic genealogy site user information, should be retained in accordance with the established records retention schedule. The lead investigator should coordinate with the property and evidence technician and provide adequate notice to the appropriate prosecutor's office before destroying any profiles or data obtained from the FGG process.

See the Property and Evidence Policy for guidelines regarding biological evidence, including DNA samples.

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# Chapter 7 - Equipment

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# Department Owned and Personal Property

## 700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

## 700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

(a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.

(b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.

(c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.

(d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

(e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

## 700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made on the proper form. This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Division Captain which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be approved by the Chief of Police.

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The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

700.3.1 REPORTING REQUIREMENT
A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

## 700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

(a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

(b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

(c) The report will be forwarded to the City's Risk Manager and the City Attorney's Office.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY
If employees of another jurisdiction cause damage to real or personal property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Division Captain.

## 700.5 CARE OF RADIO PROGRAMMING EQUIPMENT

Employees of this department responsible for radio programming may be given specialized equipment from the Silicon Valley Regional Interoperability Authority (SVRIA). This equipment may contain sensitive/confidential information regarding the Silicon Valley Regional Communication System (SVRCS). Any equipment or data relating to the programming of department radios must be kept in a locked/secured location, when not in use, within the City limits with restricted access only to those persons qualified to use the equipment or their supervisor. Unless authorized by a Technical Services Division Supervisor/Manager, this equipment shall not leave the City limits, nor shall any equipment be left unattended in a vehicle or other location. Any loss of radio programming equipment shall promptly be reported to the employee's chain of command and the SVRIA.

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# *Department Owned and Personal Property*

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# Personal Communication Devices

## 702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCD) but is intended to include all mobile telephones, personal digital assistants (PDA) and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, e-mailing, using video or camera features, playing games and accessing sites or services on the Internet.

## 702.2 POLICY

The Palo Alto Police Department allows employees to utilize department-issued PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable public records laws or a lawful order.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

## 702.3 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

## 702.4 DEPARTMENT-ISSUED PCD

Depending on an employee's assignment and the needs of the position, the Department may, at its discretion, issue a PCD. Department-issued PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department.

## 702.5 PERSONALLY OWNED PCD

Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

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(a) Carrying a personally owned PCD is a privilege, not a right.

(b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.

(c) Employees shall promptly notify the Department in the event the PCD is lost or stolen.

(d) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.

(e) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications).

(f) Employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable public records laws or a lawful order.

## 702.6 USE OF PERSONAL COMMUNICATION DEVICES

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

(a) All PCDs in the workplace shall be set to silent or vibrate mode.

(b) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours).

(c) Employees may use a PCD to communicate with other personnel in situations where the use of the radio is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid or in lieu of regular radio communications.

(d) Officers are prohibited from taking pictures, video or making audio recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.

(e) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor.

## 702.7 SUPERVISORY RESPONSIBILITIES

Supervisors should ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors should monitor, to the extent practicable, PCD use in the workplace and take prompt corrective action if an employee is observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant.

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If, when carrying out any provision of this policy, the need to contact an employee who is off-duty arises, supervisors should consider delaying the contact, if practicable, until the employee is on-duty, as such contact may be compensable.

### 702.8 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Except in an emergency, employees who are operating non-emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Vehicle Code § 23123). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

### 702.9 OFFICIAL USE

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, employees shall conduct sensitive or private communications on a land-based or other department communications network.

The following situations are examples of when the use of a PCD may be appropriate:

(a) Barricaded suspects

(b) Hostage situations

(c) Mobile Command Post

(d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.

(e) Major political or community events

(f) Investigative stakeouts

(g) Emergency contact with an allied agency or allied agency field unit

(h) When immediate communication is needed and the use of the radio is not available or appropriate and other means are not readily available

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# Vehicle Maintenance

## 704.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

## 704.2 DEFECTIVE VEHICLES

When a Department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

### 704.2.1 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured in the Department armory prior to the vehicle being released for maintenance, service or repair.

### 704.2.2 SEVERE USE

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

### 704.2.3 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

## 704.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all Department vehicles for emergency purposes and to perform routine duties.

### 704.3.1 PATROL VEHICLES

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- Emergency road flares;
- Sticks of yellow crayon or chalk;
- Roll of barricade tape;
- First aid kit;
- Fire extinguisher;
- Ampro bag;
- Protective equipment per Policy Manual §§1016 and 1024;

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- Ammunition box;
- Police report forms.

704.3.2

### 704.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized location.

### 704.5 WASHING OF VEHICLES

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers in patrol shall notify Communications before responding to the car wash. Only one marked unit should be at the car wash at the same time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

### 704.6 CIVILIAN EMPLOYEE USE

Civilian employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Civilian employees shall also prominently display the “out of service” placards or lightbar covers at all times. Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

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# Vehicle Use

## 706.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure [department/office] vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of [department/office] vehicles and shall not be construed to create or imply any contractual obligation by the City of Palo Alto to provide assigned take-home vehicles.

Additional guidelines for member responsibilities when transporting persons in custody may be found in the Transporting Persons in Custody Policy.

## 706.2 POLICY

The Palo Alto Police Department provides vehicles for [department/office]-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the [Department/Office], requirements for tactical deployments, and other considerations.

## 706.3 USE OF VEHICLES

### 706.3.1 SHIFT ASSIGNED VEHICLES

The Watch Commander shall ensure a copy of the shift assignment roster indicating member assignments and vehicle numbers is completed for each shift and retained in accordance with the established records retention schedule. If a member exchanges vehicles during the member's shift, the new vehicle number shall be documented on the roster.

### 706.3.2 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the Watch Commander. A notation will be made on the shift assignment roster indicating the member’s name and vehicle number.

This subsection does not apply to those who are assigned to vehicle transportation duties to and from the maintenance yard or carwash.

### 706.3.3 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents, or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this [department/office] should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

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All [department/office] vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

### 706.3.4 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging). Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

### 706.3.5 MDC

Members assigned to vehicles equipped with a Mobile Data Computer (MDC) shall log onto the MDC with the required information when going on-duty. If the vehicle is not equipped with a working MDC, the member shall notify the Communications Center. Use of the MDC is governed by the Mobile Data Computer Use Policy.

### 706.3.6 VEHICLE LOCATION SYSTEM

Patrol and other vehicles, at the discretion of the Chief of Police, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system. At the start of each shift, members shall verify that the system is on and report any malfunctions to their supervisor. If the member finds that the system is not functioning properly at any time during the shift, he/she should exchange the vehicle for one with a working system, if available.

System data may be accessed by supervisors at any time. However, access to historical data by other than supervisors will require Division Captain approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

### 706.3.7 KEYS

Members approved to operate marked patrol vehicles should be issued a copy of the key as part of their initial equipment distribution. Members who are assigned a specific vehicle should be issued keys for that vehicle.

Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

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706.3.8 AUTHORIZED PASSENGERS
Members operating [department/office] vehicles shall not permit persons other than City personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

706.3.9 ALCOHOL
Members who have consumed alcohol are prohibited from operating any [department/office] vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

706.3.10 PARKING
Except when responding to an emergency or when urgent [department/office]-related business requires otherwise, members driving [department/office] vehicles should obey all parking regulations at all times.

[Department/Office] vehicles should be parked in assigned stalls. Members shall not park privately owned vehicles in stalls assigned to [department/office] vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

706.3.11 ACCESSORIES AND/OR MODIFICATIONS
There shall be no modifications, additions or removal of any equipment or accessories without written permission from the assigned vehicle program manager.

706.3.12 CIVILIAN MEMBER USE
Civilian members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Civilian members shall prominently display the "out of service" placards or light bar covers at all times. Civilian members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

## 706.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES
[Department/Office] vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform the member's regular assignment.

706.4.1 ON-DUTY USE
Vehicle assignments shall be based on the nature of the member’s duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other [department/office] members at the discretion of the Chief of Police or the authorized designee.

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### 706.4.2 UNSCHEDULED TAKE-HOME USE

Circumstances may arise where [department/office] vehicles must be used by members to commute to and from a work assignment. Members may take home [department/office] vehicles only with prior approval of a supervisor and shall meet the following criteria:

(a) The circumstances are unplanned and were created by the needs of the [department/office].

(b) Other reasonable transportation options are not available.

(c) The member lives within a reasonable distance (generally not to exceed a 60-minute drive time) of the Palo Alto City limits.

(d) Off-street parking will be available at the member's residence.

(e) Vehicles will be locked when not attended.

(f) All firearms, weapons and control devices will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.

### 706.4.3 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence, the nature of the member's duties, job description and essential functions, and employment or appointment status. Residence in the City of Palo Alto is a prime consideration for assignment of a take-home vehicle. Members who reside outside the City of Palo Alto may be required to secure the vehicle at a designated location or the [Department/Office] at the discretion of the Chief of Police.

[Department/Office] members shall sign a take-home vehicle agreement that outlines certain standards, including, but not limited to, how the vehicle shall be used, where it shall be parked when the member is not on-duty, vehicle maintenance responsibilities and member enforcement actions.

Members are cautioned that under federal and local tax rules, personal use of a City vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member's tax adviser.

Criteria for use of take-home vehicles include the following:

(a) Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless special circumstances exist and the Chief of Police or a Division Captain gives authorization.

(b) Vehicles may be used to transport the member to and from the member's residence for work-related purposes.

(c) Vehicles will not be used when off-duty except:

1. In circumstances when a member has been placed on call by the Chief of Police or Division Captains and there is a high probability that the member will be called back to duty.

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2. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or travelling to or from a work-related activity or function.
3. When the member has received permission from the Chief of Police or Division Captains.
4. When the vehicle is being used by the Chief of Police, Division Captains or members who are in on-call administrative positions.
5. When the vehicle is being used by on-call investigators.

(d) While operating the vehicle, authorized members will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.

(e) The two-way communications radio, MDC and global positioning satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation.

(f) Unattended vehicles are to be locked and secured at all times.

1. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging).
2. All weapons shall be secured while the vehicle is unattended.
3. All [department/office] identification, portable radios and equipment should be secured.

(g) Vehicles are to be parked off-street at the member's residence unless prior arrangements have been made with the Chief of Police or the authorized designee. If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).

(h) Vehicles are to be secured at the member's residence or the appropriate [department/office] facility, at the discretion of the [Department/Office] when a member will be away (e.g., on vacation) for periods exceeding one week.

1. If the vehicle remains at the residence of the member, the [Department/Office] shall have access to the vehicle.
2. If the member is unable to provide access to the vehicle, it shall be parked at the [Department/Office].

(i) The member is responsible for the care and maintenance of the vehicle.

### 706.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Palo Alto Police Department or while off-duty, an officer shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

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Officers may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Officers driving take-home vehicles shall be armed, appropriately attired and carry their [department/office]-issued identification. Officers should also ensure that [department/office] radio communication capabilities are maintained to the extent feasible.

706.4.5 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the [Department/Office]. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

(a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.

(b) It is the member's responsibility to ensure that the assigned vehicle is maintained according to the established service and maintenance schedule.

(c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the [department/office] supervisor in charge of vehicle maintenance.

(d) The [Department/Office] shall be notified of problems with the vehicle and approve any major repairs before they are performed.

(e) When leaving the vehicle at the maintenance facility, the member will complete a vehicle repair card explaining the service or repair, and leave it on the seat or dash.

(f) All weapons shall be removed from any vehicle left for maintenance.

(g) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

## 706.5 UNMARKED VEHICLES

Vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a division supervisor. Any member operating an unmarked vehicle shall record vehicle usage on the sign-out log maintained in the division for that purpose. Any use of unmarked vehicles by those who are not assigned to the division to which the vehicle is assigned shall also record the use with the Watch Commander on the shift assignment roster.

## 706.6 DAMAGE, ABUSE AND MISUSE

When any [department/office] vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see the Traffic Collision Reporting Policy).

Damage to any [department/office] vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in

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memorandum format and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

### 706.7 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating [department/office] vehicles on a toll road shall adhere to the following:

(a) Members operating [department/office] vehicles for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way transponder. Members may submit a request for reimbursement from the City for any toll fees incurred in the course of official business.

(b) Members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Division Captain within five working days explaining the circumstances.

### 706.8 ATTIRE AND APPEARANCE

When operating any [department/office] vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the [Department/Office].

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# Personal Protective Equipment

### 707.1 PURPOSE AND SCOPE

Sworn officers will be issued Personal Protective Equipment (PPE) including chemical protective ensembles to allow them to safely respond to Hazardous Materials (HAZMAT) and Weapons of Mass Destruction (WMD) events.

### 707.2 EQUIPMENT

(a) Level C gear kits will include: Chemically resistant coveralls, gloves, boots, and tape, WMD Respirator Cartridges, and Identification Vest. The Identification vest can also be used for traffic control duties. All sworn officers will be equipped with Level C Personal

(b) Protective Equipment (PPE) gear. Patrol officers will have their Level C gear available to them in their vehicles while they are on patrol or working assignments where their supervisor deems it necessary. Officers will maintain their gear in good working order and alert the Staff Assistant or designated WMD/HAZMAT Equipment Officer should the gear become damaged or need repair. A cache of extra PPE will be stored in the police station.

### 707.3 TRAINING

All sworn officers will be trained in force protection, decontamination practices, WMD/HAZMAT Awareness and participate in Department trainings concerning WMD/HAZMAT response. The Department will participate in training with the Palo Alto Fire Department and allied local agencies to prepare for a joint response to WMD/HAZMAT events.

### 707.4 OPERATIONS (SUPERVISOR AND OFFICER RESPONSIBILITIES

Response to a suspected or reported WMD/HAZMAT event will include:

(a) Communications will dispatch the appropriate number of police and fire units to the call.

(b) The field supervisor will work with the Fire Battalion Chief in order to coordinate the response, staging location, and on scene control.

(c) The on-duty Watch Commander will assist in procuring resources, coordinating the response, and making necessary notifications.

(d) Responding officers will proceed to the staging location.

(e) The field supervisor in conjunction with the Fire Battalion Chief will determine the need for police officers to don PPE.

(f) If required, officers will properly don PPE and proceed as directed by the field supervisor.

(g) Officers will not take independent action that could place them in unreasonable danger, but rather will proceed in an orderly fashion. Responding officers should rely

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on teamwork and work under the direction of the Field Supervisor. Tasks officers may be assigned will include acting as security for the firefighters, crowd control, detaining suspects, and interviewing witnesses.

(h) The field supervisor will be responsible for coordinating the on scene activities, implementing the Incident Command System (ICS)/California Standardized Emergency Management System (SEMS) as deemed appropriate, calling for additional resources, directing incoming units, etc.

(i) The field supervisor or his/her designee will work closely with the Fire Department personnel to insure responding officers operating in PPE are properly monitored for signs of over exertion, and that those officers are rotated to a rehabilitation station, as appropriate.

## 707.5 DECONTAMINATION PROCEDURE

If an officer has utilized the PPE and is exposed or potentially exposed to a substance, the officer will participate in the decontamination procedure at the direction of the Fire Department. The on scene Hazmat Specialist will determine if the officer's PPE has been compromised. The officer's PPE may be destroyed and some of the officer's equipment may be replaced.

If an officer utilizes the PPE and was not exposed to any possible harmful substance, the officer should inspect their PPE for damage and then safely store it for future use.

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# Reflectorized Vests

## 709.1 PURPOSE AND SCOPE

In order to reduce the danger to employees exposed to the hazards of approaching traffic, reflectorized vests are provided to increase the visibility of employees.

Statistically, more officers are killed in the line of duty in vehicle collisions than any other way. The intent of this policy is to safeguard the lives of officers and other employees working in or about the right-of-way of traffic for an extended period of time and to comply with the current laws regarding the usage of reflectorized vests (California Code of Regulations, Title 8, Section 1598 et. seq. and federal regulation 23 CFR 634).

## 709.2 POLICY

(a) One reflectorized vest shall be issued to every officer, reserve officer, and community service officer. All other employees shall temporarily receive a reflectorized vest from the Field Services Staff Assistant, as necessary, for events or incidents, and returned at the conclusion of the event or incident.

(b) Employees must keep the reflectorized vest inside their vehicle while on-duty.

(c) Reflectorized vests shall be worn by employees engaged in the performance of vehicular traffic control in any location or while performing investigations upon a highway. Employees responding to traffic collisions or other incidents upon a highway may first stabilize the scene (assess the need for fire/medical response, tend to injured parties, etc.) and address immediate officer safety concerns prior to donning a reflectorized vest.

(d) Officers are not required to wear a reflectorized vest in adversarial or potentially confrontational situations when the hazards of wearing a reflectorized vest clearly outweigh the benefits of doing so (i.e. traffic enforcement stops, standing in or near a roadway while on an inner perimeter while a suspect is still outstanding, etc.).

(e) Reflectorized vests shall comply with the ANSI/ISEA 107-2004 Class II standard.

(f) A supply of reflectorized vests will be maintained by the Patrol Division equipment room for replacement of damaged or unserviceable vests.

## 709.3 CARE AND STORAGE OF REFLECTORIZED VESTS

The reflectorized vest shall be stored and maintained in serviceable condition at all other times.

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# Digital Imaging

## 711.1 PURPOSE AND SCOPE

Digital imaging technologies have become a standard format for forensic photography. It is the intent of the Palo Alto Police Department to use digital photographic equipment and digital imaging equipment as the primary method of capturing and storing photographs.

It is the policy of the Palo Alto Police Department to establish and implement effective guidelines for the use of digital equipment to ensure that images are properly captured, stored and archived.

The Department will utilize a dedicated digital imaging management system to store the images and provide a verifiable chain of custody.

## 711.2 DEFINITIONS

The use of standardized definitions will aid in our ability to effectively describe an image, its origin and its storage.

(a) Archived Image: Either the primary or original image stored on media suitable for long term storage;

(b) Copy Image: A reproduction or information contained in a primary or original image;

(c) Digital Image: An image that is stored in numerical form;

(d) Digital Imaging: Any systems and/or methods used to capture, store, process, copy, enhance, analyze, transmit, print, or produce an image;

(e) Image Enhancement: Any process intended to improve the visual appearance of an image;

(f) Native File Format: The file format of the primary image;

(g) Original Image: An accurate and complete replica of the primary image, irrespective of media;

(h) Primary Image: Refers to the first instance in which an image is recorded onto any media that is a separate, identifiable object or objects.

## 711.3 PROCEDURE

**System** ," The Police Department will use the Veripic Digital Photo Lab for managing digital images. The Department will use a dedicated server that will physically be housed in a secure area of the Police Department. The client terminals will also be maintained in secure areas of the Police Department and not available to the general public. The digital imaging system will only be used by authorized personnel who have received training in the operation of the system. The system will only be used for the purpose of managing official department photographs. The system will not be used for personal photographs of any kind.

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**Administration** ," The Technical Services Coordinator will oversee the system. The Coordinator will assign one or more police personnel to manage the day to day administrator functions of the system. It is the responsibility of this officer to maintain the system in a working fashion, coordinate software and hardware replacement, add and delete users from the system, and maintain a working relationship with the Information Technologies personnel assigned to the system.

**Training** ," Only personnel who have been trained in the use of the digital equipment and Veripic software will be authorized to use it. Personnel will not be given a logon or password if they have not received proper training. Personnel may download photos for other employees that have not been trained to use the system. Personnel shall not share their individual logon or password with others.

**Use at Crime Scenes** ," Digital photography has become the industry standard for capturing images. It is no longer recommended that 35mm film systems be used at crime scenes, unless there is a special need for that medium. In some situations the photographer may choose to use 35mm equipment. The Department will maintain at least one serviceable 35mm system for those circumstances. It is strongly recommended that major crime scenes be photographed and the images downloaded before the scene is released.

**Importing Images** ," All images downloaded into the Veripic system shall have an incident number. As a reminder, the directions for importing images into Veripic will be posted next to the client terminals. It is the policy of the Department that all images downloaded into Veripic will be tagged with the Incident Number, Designated Report number, primary Offense/Classification, and the address of the event. The following procedures will be used for naming images:

(a) Enter the Incident Number in the box titled "Enter New Case Number (30 max length):" Always use the full number with dashes. i.e.: 10-001-0001

(b) Enter the Designated Report (DR) number in the box titled "Description of Media." Leave this area blank if there is no Designated Report Number. Always use the full number with dashes. i.e.: 10-0001

(c) In the box titled "Notes for all media", enter main offense & classification. You may enter more than one offense & classification if desired.

(d) Push "Enter" to start a new line and enter the address of the event.

**Annotating Field Interview Images** ," All FI photos will be downloaded and tagged as described above. Each photo will then be annotated with the name of the individual in the "Notes for all media" box. See the Veripic instructions for directions on how to annotate individual images.

**Archiving Images** ," Acquired images shall be downloaded to the Veripic System at one of the client terminals. In the event of a catastrophic system failure, images may be written directly to a CD or DVD and that medium will be logged into evidence. The images will be copied to the Veripic system at a later time.

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### 711.4 FILE FORMAT

It is the policy of the Palo Alto Police Department that the native file format of digital images shall be JPEG (file extension .jpg).

### 711.5 ALTERING OR DISCARDING IMAGES

Under no circumstances should a digital photograph taken for evidentiary purposes be deleted, altered or otherwise discarded. All evidence images will be saved regardless of quality or perceived usefulness.

Digital images associated with a police report will be kept for as long as is required by the Police Department retention schedule. These images will be kept no less than five (5) years and up to one hundred (100) years (permanent) depending on the type of report.

When a case is adjudicated through the court process and all evidence is deemed purged, the Police Records Manager will notify the system administrator, who will ensure that the archived digital images from that report are destroyed as well.

### 711.6 ENHANCING IMAGES

Enhancement of an image is done simply to make the image more viewable. Enhancement is typically done to color balance, brightness and contrast. When an image is enhanced, each step taken to make the enhancement shall be documented on a supplemental report and attached to the original case file. Enhancements shall only be made to a copy of the original image (the original image shall not be altered).

### 711.7 COMPUTER SECURITY

The enterprise server designated for the storing of digital images is currently located in the Communications computer room. The server should only be operated by technicians from the IT division or authorized system administrators.

The client terminals are located in the Investigative Services Division and on A level in the Field Services Division. The client terminals should only be used by authorized operators.

The system will be password protected to prohibit unauthorized use.

No person, other than the system administrator, is authorized to add or delete programs, perform maintenance functions, or otherwise alter the system and software settings.

### 711.8 USE OF IMAGES

Images taken by department personnel during the performance of their official duties should be considered evidence and treated as such. Images should be used for legitimate law enforcement purposes only.

No images should be distributed to persons not authorized to receive them. No images taken for evidentiary reasons should be used for entertainment purposes, or otherwise posted or distributed for unauthorized reasons.

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### 711.9 OBTAINING IMAGES FOR OFFICIAL USE

Images may be delivered to authorized recipients in a variety of formats. Images may be printed, copied to an external hard drive, copied to a jump drive, copied to a CD/DVD, or send by e-mail. If an image/file is needed, the user may export the files directly to the desired media. See the Veripic instructions for directions on how to export images.

The Court Liaison will be responsible for obtaining and distributing all images that are requested through an official discovery request.

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# Patrol Team Boxes

## 713.1 PURPOSE AND SCOPE

The Department provides each patrol team equipment to assist in their patrol duties. This equipment is stored inside a Team Box.

## 713.2 TEAM BOX CONTENTS

Each Team Box contains the following equipment:

(a) Burris Landmark II Binoculars

(b) Yukon Digital Ranger Night Vision

(c) Canon Powershot Digital Camera

(d) Various associated cords and batteries

## 713.3 PROCEDURE

During daily briefings, a team member should be assigned to carry the Team Box. The team member who is assigned to carry the Team Box should inspect the equipment inside the Team Box at the beginning of the shift and immediately report any missing or damaged equipment to his/her supervisor. The team member that is assigned to carry the Team Box is responsible for the care of all the contents of the Team Box.

The Team Box should not be left in the patrol car, but should be stored in the equipment room that is just outside of the briefing room at the end of the assigned team member's shift.

Any damaged equipment should be reported to the Staff Assistant for repair or replacement.

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# Military Equipment

## 716.1 PURPOSE

This policy is provided to fulfill the obligations set forth in Assembly Bill No. 481 and establishes guidelines for the acquisition, funding, use and reporting of "military equipment", as the term is defined in Government Code section 7070. These obligations include but are not limited to seeking approval on specific items deemed, by statute, to be military equipment and requirements related to compliance, annual reporting, cataloging, and complaints regarding these items.

### 716.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

**Governing body** – The elected or appointed body that oversees the [Department/Office].

**Military equipment** – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- Area denial electroshock devices, microwave weapons, water cannons, long-range acoustic devices (LRADs), acoustic hailing devices, and sound cannons.
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

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### 716.2 GOVERNING BODY APPROVAL

1. The Department shall obtain approval of the governing body prior to engaging in any of the following activities:

(a) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(b) Seeking funds for military equipment including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to general order

(f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(g) Acquiring military equipment through any means not provided in a. through f.

2. In seeking the approval of the governing body, the Department shall comply with Gov. Code § 7071, which requires that the Department submit a proposed military equipment use policy, or subsequent amendments, to the City Council and the public via the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

3. The governing body must be able to make the following findings in approving the Military Equipment Use Policy as required by Gov. Code § 7071(d)(1) in order to use military equipment:

(a) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(b) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(c) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(d) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

### 716.3 MILITARY EQUIPMENT ANNUAL REPORT

The Department shall submit an annual military equipment report to the governing body that addresses each type of military equipment possessed by the Department in compliance with Gov. Code § 7072.

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1. The Department shall also make each annual military equipment report publicly available on its internet website for as long as the military equipment is available for use.

2. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

(a) A summary of how the military equipment was used and the purpose of its use.

(b) A summary of any complaints or concerns received concerning the military equipment.

(c) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.

(d) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

(e) The quantity possessed for each type of military equipment.

(f) If the Department intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

The Department will document each use of military equipment and, via administrative review, ensure compliance with this policy. Any instances of non-compliance will be reported to the City Council via the annual military equipment report, and to the Independent Police Auditor where appropriate.

### 716.4 MILITARY EQUIPMENT USE POLICY COMPLAINTS AND CONCERNS

Pursuant to Gov. Code § 7070(d)(7), members of the public may register complaints or concerns or submit questions by any of the following means:

(a) Via email to: militaryequipment@cityofpaloalto.org

(b) Via phone call to: (650) 329-2406

(c) Via mail sent to: Palo Alto Police Department, Attn: Personnel and Training, 275 Forest Avenue, Palo Alto, CA 94301

The Department is committed to responding to complaints, concerns and/or questions received through any of the above methods in a timely manner.

### 716.5 MILITARY EQUIPMENT TRAINING

Military equipment shall only be used after applicable training, including any course required by the Commission on Peace Officer Standards and Training (P.O.S.T.), has been completed, unless exigent circumstances arise.

### 716.6 MILITARY USE EQUIPMENT POLICY CONTENTS

All military use equipment kept and maintained by the Department shall be cataloged in a way which addresses each of the following requirements in compliance with Gov. Code § 7070(d):

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(a) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.

(b) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.

(c) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.

(d) The legal and procedural rules that govern each authorized use.

(e) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.Palo Alto Police Department [department/office]

## 716.7 USE POLICY FOR SPECIFIC EQUIPMENT

**Qualifying Equipment Owned/Utilized by the Department**

**Equipment Type:** 37mm Less Lethal Launchers and Kinetic Energy Munitions - CA Gov't Code §7070(c)(14)

**Quantity Owned/Sought:** 30 owned **Lifespan:** Approximately 15 years

**Equipment Capabilities:** The 37MM Less Lethal Launcher is capable of firing 37MM Kinetic Energy and Chemical Agent Munitions. Palo Alto PD only possesses "KO1" impact baton rounds in its inventory.

**Manufacturer Product Description:** Sage Control Ordinance 37MM launchers are rugged, reliable, and simple to operate less lethal launchers. These launchers are light weight, versatile and used worldwide by police officers. The 37MM launcher family of products is available in single-shot ("Ace"), double-shot ("Deuce"), or magazine fed configurations. Palo Alto PD possesses the "Ace" and "Deuce" models.

**Purpose/Authorized Uses:** The 37MM Less Lethal Launchers and Kinetic Energy Munitions are intended for use as a less lethal use of force option. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

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

(a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.

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(b) The suspect has made credible threats to harm him/herself or others.

(c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.

(d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

**Fiscal Impacts:** The initial cost of this equipment was approximately $27,000. The ongoing costs for munitions will vary and maintenance is conducted by departmental staff.

**Legal/Procedural Rules Governing Use:** Use governed by applicable State, Federal and Local law, and PAPD policy, including but not limited to PAPD policy §§ 300 (Use of Force) and 308 (Control Devices and Techniques). Use will continue to be subject to an administrative Use of Force review.

**Training Required:** Officers must complete a department certified 37mm course as well as regular training and qualifications as required by law and policy.

**Other Notes:** None.

**Equipment Type:** Long Range Acoustic Device (LRAD) - CA Gov't Code §7070(c)(13)

**Quantity Owned/Sought:** 1 **Lifespan:** Unknown.

**Equipment Capabilities:** LRAD systems are a type of Acoustic Hailing Device (AHD) used to send messages over long distances. LRAD systems produce much higher sound levels (volume) than normal loudspeakers or megaphones, and can be more narrowly directed.

**Manufacturer Product Description:** LRAD systems are a type of Acoustic Hailing Device (AHD) used to send messages over long distances. LRAD systems produce much higher sound levels (volume) than normal loudspeakers or megaphones. Over shorter distances, LRAD signals are loud enough to cause pain in the ears of people in their path.

**Purpose/Authorized Uses:** Primarily used to communicate, from a safe distance, with armed and/or barricaded subjects, for the purpose of negotiation. Can also be used in furtherance of search and rescue operations, and to communicate lawful dispersal orders.

**Legal/Procedural Rules Governing Use:** Use governed by applicable State, Federal and Local law, and PAPD policy, including but not limited to PAPD policy § 414 (Hostage and Barricade Incidents). Use will be subject to an administrative review.

**Training Required:** The Palo Alto Police Department provides internal training for staff members prior to allowing them to use this equipment.

**Other Notes:** This equipment is maintained and operated by members of the Department's Crisis Negotiation Team (CNT).

**Equipment Type:** Diversionary Devices and Chemical Agents (tear gas) and pepper balls - CA Gov't Code §7070(c)(12)

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**Quantity Owned/Sought:** 108 **Lifespan:** 5 years

**Equipment Capabilities:** Capable of creating auditory/visual distractions, and/or deploying tear gas or pepper chemical to distract potentially dangerous individuals.

**Manufacturer Product Description:**

The Palo Alto Police Department uses Diversionary Devices and Chemical Agents produced by Defense Technology (DT) and Combined Tactical Systems (CTS). All Chemical Agents utilized by PAPD contain CS (Orthochlorobenzalmalononitrile) or OC (Oleoresin Capsicum).

Diversionary Devices:

(a) Flash-Bang (CTS-7290)

1. The CTS 7290 is the standard for diversionary flash-bang devices. The 7290 produces a 165-180db and 6-8 million candela of light output.

(a) Mini-Bang (CTS-7290M)

1. The Model 7290M Flash-Bang exhibits all of the same attributes of its larger counterpart but in a smaller and lighter package. Weighing in at just 15 ounces the new 7290M is approximately 30% lighter than the 7290 but still has the same 180db output of the 7290 and produces 6-8 million candela of light.

Chemical Agents:

(a) CS 37mm Liquid Ferret Barricade Round (CTS-3330)

1. 3330 – Liquid CS filled projectile penetrates intermediate barriers and delivers irritant agents into an adjacent room.

(b) CS 37mm Liquid Ferret Barricade Round (DT-1162)

1. The Ferret® 37 mm CS Round is a frangible projectile filled with chemical agent. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers the.16 oz. agent payload inside a structure.

(c) CS Flameless Tri-Chamber (DT-1032)

1. The design of the Tri-Chamber Flameless CS Grenade allows the contents to burn within an internal can and disperse the agent safely with reduced risk of fire. The grenade is designed primarily for indoor tactical situations to detect and/or dislodge a barricaded subject. This grenade will deliver approximately.70 oz. of agent during its 20-25 seconds burn time. The Tri-Chamber Flameless Grenade can be used in crowd control as well as tactical deployment situations by Law Enforcement and Corrections, but was designed with the barricade situation in mind.

(d) CS Triple Chaser Separating Canister (DT-1026)

1. The Triple-Chaser® CS consists of three separate canisters pressed together with separating charges between each. When deployed, the canisters separate allowing increased area coverage in a short period of time. This grenade can be hand thrown or launched from a fired delivery system.

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(e) CS Riot Control (DT-1082)

1. The Riot Control CS Grenade is designed specifically for outdoor use in crowd control situations with a high volume continuous burn.. This grenade can be used to conceal tactical movement or to route a crowd. The volume of smoke and agent is vast and obtrusive.

Smoke:

(a) Maximum HC (Hexachlorethane) Smoke (DT-1073)

1. The Maximum Smoke Grenade is designed specifically for outdoor use in crowd control situations with a high volume continuous burn. This grenade can be used to conceal tactical movement or to route a crowd. The volume of non-irritant smoke and agent is vast and obtrusive.

Pepperball:

Less lethal launchers are designed for minimum time between launches and quick reload speed, so whether in a crowd control scenario, tactical or even Mobile Field Force situation, the PepperBall system offers flexibility, safety and security, all within one platform. Each launcher is air powered, with either carbon dioxide (CO2), nitrogen, or compressed air powering the launch of projectiles.

**Purpose/Authorized Uses:** creating explosive distractions, and/or deploying chemical agents.

**Fiscal Impacts:** The initial cost of the Pepperball equipment was approximately $7,920. The ongoing costs for munitions will vary and maintenance is conducted by departmental staff. The initial cost of the distraction devices and chemical agents was approximately $2,400. The ongoing costs for munitions will vary and (minimal, if any) maintenance is conducted by departmental staff.

**Legal/Procedural Rules Governing Use** Use governed by applicable State, Federal and Local law, and PAPD policy, including but not limited to PAPD policy §§ 300 (Use of Force), 308 (Control Devices and Techniques), and 408 (Crisis Response Unit).Use of tear gas or pepper balls will continue to be subject to an administrative Use of Force review. Use of distraction devices will be subject to an administrative review to ensure policy compliance.

**Training Required:** A P.O.S.T. certified Control Devices and Techniques Department chemical agent and distraction device instructor provides internal training for all members of the SWAT team prior to allowing them to use flashbang grenades or tear gas. The Department provides internal training for all members prior to allowing them to use pepper balls.

**Other Notes:** Distraction devices and chemical agents are exclusively maintained and operated by members of the Department's Special Weapons and Tactics Team (SWAT).

**Equipment Type:** Bolt Action Rifle and Ammunition - CA Gov't Code §7070(c)(10)

**Quantity Owned/Sought:** 1 owned **Lifespan:** Approximately 15 years

**Equipment Capabilities:** Accuracy International rifle is capable of firing a 7.62mm/.308 cal projectile bullet.

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**Manufacturer Product Description:** Accuracy International (AI) Accuracy Tactical bolt action rifle.308 Winchester/7.62mm NATO.

(a) 20" barrel threaded 5/8x24

(b) Nightforce:C622 Scope.250 MOA

(c) AI Adjustable cheek piece

(d) AI Two-stage trigger

(e) AI 10-round.380 caliber magazine

(f) AI Three-position safety

**Purpose/Authorized Uses:** This rifle is authorized for use by a specially-trained, SWAT marksman only and may be deployed in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the rifle may include but are not limited to:

(a) Situations where the officer reasonably anticipates an armed encounter.

(b) When the officer is faced with a situation that may require accurate and effective fire at long range.

(c) Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower.

(d) When an officer reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.

(e) When an officer reasonably believes that a suspect may be wearing body armor.

(f) When authorized or requested by a supervisor.

**Fiscal Impacts:** This equipment was purchased by the Palo Alto Police Department at an initial cost of $6500.00. The ongoing costs for ammunition will vary and maintenance is conducted by departmental staff.

**Legal/Procedural Rules Governing Use:** Use governed by applicable State, Federal and Local law, and PAPD policy, including but not limited to PAPD policy §§ 300 (Use of Force), 312 (Firearms), and 408 (Crisis Response Unit).Each use will continue to be subject to an administrative Use of Force review.

**Training Required:** In addition to CA P.O.S.T. certified patrol rifle and CA P.O.S.T. certified standard SWAT Operator training, SWAT marksmen must successfully complete a CA P.O.S.T. certified course as well as regular SWAT marksmanship training and qualifications as required by law and policy.

**Other Notes:** The Palo Alto Police Department does not presently have an active-duty SWAT marksman among its staff, so there are no Palo Alto Police personnel presently authorized to use this Military Equipment.

**Qualifying Equipment Owned/Utilized by Palo Alto OES**

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**Equipment Type:** Command and control vehicle – CA Gov't Code §7070(c)(5)

**Quantity Owned/Sought:** 1 **Lifespan:** Approximately 20 years

**Equipment Capabilities:** The City of Palo Alto Office of Emergency Services (OES) has a Mobile Emergency Operations Center (MEOC) vehicle.

**Manufacturer Product Description:** The MEOC is built on a 40' Freightliner chassis, 2010 Model Year.

**Purpose/Authorized Uses:** The MEOC serves as a resource for public safety and coordinates with other such vehicles operated by other agencies. It is deployed to "all hazards" ranging from natural disasters, wildfires, crime, special events, and planned and unplanned disruptions to 9-1-1 and Emergency Operations Center systems and facilities.

**Fiscal Impacts:** The MEOC was acquired in approximately 2010 with grant funding of $300,000 and City funding of $375,000. The ongoing costs for maintenance and operation will vary and most maintenance is conducted by City staff.

**Legal/Procedural Rules Governing Use:** It is the policy of OES to use the MEOC in accordance with California State law regarding the operation of motor vehicles. Furthermore, since the MEOC is grant-funded and since the MEOC is a rare resource, the City may support mutual aid with the MEOC (for example wildfire response). Use will be subject to an administrative review to ensure policy compliance.

**Training Required:** The MEOC is a highly complex system. City staff are provided with requisite training and licensing, depending on their role in supporting the MEOC.

**Other Notes:** The MEOC is not a "military vehicle" but could support coordination with the National Guard, FEMA, and other cooperating agencies after a major earthquake or other disaster.

**Qualifying Equipment known to be owned and/or utilized by law enforcement units with which the Palo Alto Police Department collaborates and/or participates for law enforcement purposes**

**Equipment Type:** Unmanned Aircraft Systems (UAS/Drones) – CA Gov't Code §7070(c)(1)

**Quantity Owned/Sought:** None (outside owned) **Lifespan:** Various

**Equipment Capabilities:** Remotely piloted aerial vehicles capable of providing live and recorded video images captured from aerial positions, including images enhanced by Forward Looking Infrared (FLIR) and optical zoom lenses.

**Manufacturer Product Description:** Various. Dependent upon the availability of mutual aid equipment and personnel at the time of need.

**Purpose/Authorized Uses:** UAS/Drones may be utilized to enhance the Department's mission of protecting lives and property when other means and resources are not available or are less effective. Uses may include but are not limited to: search and rescue; suspect apprehension; crime

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scene documentation; tactical operations; scene security; hazard monitoring, identification and mitigation; response to emergency calls; crisis communications; legally authorized surveillance.

**Fiscal Impacts:** None. Equipment owned, maintained, and operated by another agency.

**Legal/Procedural Rules Governing Use:** Use governed by applicable State, Federal and Local law, Federal Aviation Administration (FAA) regulations, and PAPD policy, including but not limited to PAPD policy §§ 322 (Search and Seizure) and 352 (Outside Agency Assistance).Federal Aviation Administration (FAA) regulations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Upon mutual aid or other request from PAPD, UAS/Drone will be operated by the deploying agency's staff pursuant to their own policies and review.

**Training Required:** Prior to piloting any UAS/Drone staff members must secure an FAA Remote Pilot License and complete all training required by our FAA COA.

**Other Notes:** None.

**Equipment Type:** Unmanned, remotely piloted, powered ground vehicles - CA Gov't Code §7070(c)(1)

**Quantity Owned/Sought:** None (outside owned) **Lifespan:** Various

**Equipment Capabilities:** Robots are capable of being remotely navigated to provide scene information and intelligence in the form of video and still images transmitted to first responders.

**Manufacturer Product Description:** Various. Dependent upon the availability of mutual aid equipment and personnel at the time of need.

**Purpose/Authorized Uses:** To enhance the safety of potentially dangerous situations by providing first responders with the ability to capture video and still images of hazardous areas prior to, or in lieu of, sending in personnel.

**Fiscal Impacts:** None. Equipment owned, maintained, and operated by another agency.

**Legal/Procedural Rules Governing Use:** Absent a warrant or exigent circumstances, operators and observers shall adhere to all applicable privacy laws and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Use governed by applicable State, Federal and Local law, Federal Aviation Administration (FAA) regulations, and PAPD policy, including but not limited to PAPD policy §§ 322 (Search and Seizure) and 352 (Outside Agency Assistance). Upon mutual aid or other request from PAPD, vehicle will be operated by deploying agency's staff pursuant to their own policies and review.

**Training Required:** Subject to the policies of the deploying agency.

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**Other Notes:** While the Palo Alto Police Department does not own or operate this equipment, it could be deployed to an incident within city limits.

**Equipment Type:** Wheeled vehicles that have a breaching apparatus attached - CA Gov't Code §7070(c)(3)

**Quantity Owned/Sought:** None (outside owned) **Lifespan:** Various

**Equipment Capabilities:** Capable of breaching doors, gates, and other points of entry; facilitating the safe transport of officers or civilians facing an armed suspect.

**Manufacturer Product Description:** Various. Dependent upon the availability of mutual aid equipment and personnel at the time of need.

**Purpose/Authorized Uses:** Breaching doors, gates, and other points of entry. Safely transporting police personnel or evacuating civilians, when facing with an armed suspect.

**Fiscal Impacts:** None. Equipment owned, maintained, and operated by another agency.

**Legal/Procedural Rules Governing Use:** Use governed by applicable State, Federal and Local law, and PAPD policy, including but not limited to PAPD policy §§ 322 (Search and Seizure) and 352 (Outside Agency Assistance). Upon mutual aid or other request from PAPD, vehicle will be operated by deploying agency's staff pursuant to their own policies and review.

**Training Required:** Subject to the policies of the deploying agency.

**Other Notes:** While the Palo Alto Police Department does not own or operate this equipment, it could be deployed to an incident within city limits.

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# Chapter 8 - Support Services

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# Crime Analysis

## 800.1 PURPOSE AND SCOPE

Crime analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

## 800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports;
- Field Interview cards;
- Parole and Probation records;
- Calls for Service (CFS);
- Collision Investigation Manual (CIM);
- RMS (ICIS);
- Computer Aided Dispatch (CAD) data;
- Statewide Integrated Traffic Reporting System (SWITRS);
- Outside law enforcement agency bulletin.

## 800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for Crime Analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

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### 800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to them. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

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# The Communications Center

## 802.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of the Communications Center. It addresses the immediate information needs of the [Department/Office] in the course of its normal daily activities and during emergencies.

## 802.2 POLICY

It is the policy of the Palo Alto Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The [Department/Office] provides two-way radio capability providing continuous communication between the Communications Center and [department/office] members in the field.

## 802.3 THE COMMUNICATIONS CENTER SECURITY

The communications function is vital and central to all emergency service operations. The safety and security of the Communications Center, its members and its equipment must be a high priority. Special security procedures should be established in a separate operations manual for the Communications Center.

Access to the Communications Center shall be limited to the Communications Center members, the Watch Commander, command staff and [department/office] members with a specific business-related purpose.

## 802.4 RESPONSIBILITIES

### 802.4.1 COMMUNICATIONS MANAGER

The Chief of Police shall appoint and delegate certain responsibilities to a Communications Manager. The Communications Manager is directly responsible to the Field Services Division Captain or the authorized designee.

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

(a) Overseeing the efficient and effective operation of the Communications Center in coordination with other supervisors.

(b) Scheduling and maintaining dispatcher time records.

(c) Supervising, training and evaluating dispatchers.

(d) Ensuring the radio and telephone recording system is operational.

1. Recordings shall be maintained in accordance with the established records retention schedule and as required by law.

(e) Processing requests for copies of the Communications Center information for release.

(f) Maintaining the Communications Center database systems.

(g) Maintaining and updating the Communications Center procedures manual.

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1. Procedures for specific types of crime reports may be necessary. For example, specific questions and instructions may be necessary when talking with a victim of a sexual assault to ensure that his/her health and safety needs are met, as well as steps that he/she may take to preserve evidence.
2. Ensuring dispatcher compliance with established policies and procedures.

(h) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.

(i) Maintaining a current contact list of City personnel to be notified in the event of a utility service emergency.

### 802.4.2 ADDITIONAL PROCEDURES

The Communications Manager should establish procedures for:

(a) Recording all telephone and radio communications and playback issues.

(b) Storage and retention of recordings.

(c) Security of audio recordings (e.g., passwords, limited access, authorized reviewers, preservation of recordings past normal retention standards).

(d) Availability of current information for dispatchers (e.g., Watch Commander contact, rosters, member tracking methods, member contact, maps, emergency providers, tactical dispatch plans).

(e) Assignment of field members and safety check intervals.

(f) Emergency Medical Dispatch (EMD) instructions.

(g) Procurement of external services (e.g., fire suppression, ambulances, aircraft, tow trucks, taxis).

(h) Protection of essential equipment (e.g., surge protectors, gaseous fire suppression systems, uninterruptible power systems, generators).

(i) Protection of radio transmission lines, antennas and power sources for the Communications Center (e.g., security cameras, fences).

(j) Handling misdirected, silent and hang-up calls.

(k) Handling private security alarms, if applicable.

(l) Radio interoperability issues.

### 802.4.3 DISPATCHERS

Dispatchers report to the Communications Manager. The responsibilities of the dispatcher include, but are not limited to:

(a) Receiving and handling all incoming and transmitted communications, including:

1. Emergency 9-1-1 lines.
2. Business telephone lines.

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3. Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.
4. Radio communications with [department/office] members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).
5. Other electronic sources of information (e.g., text messages, digital photographs, video).

(b) Documenting the field activities of [department/office] members and support resources (e.g., fire department, EMS, allied agency law enforcement units).

(c) Inquiry and entry of information through the Communications Center, [department/office] and other law enforcement database systems (CLETS, DMV, NCIC).

(d) Monitoring [department/office] video surveillance systems.

(e) Maintaining the current status of members in the field, their locations and the nature of calls for service.

(f) Notifying the Watch Commander or field supervisor of emergency activity, including, but not limited to:

1. Vehicle pursuits.
2. Foot pursuits.
3. Assignment of emergency response.

## 802.5 CALL HANDLING

This [Department/Office] provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for services is received, the dispatcher will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the dispatcher determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the dispatcher determines that the caller is a limited English proficiency (LEP) individual, the dispatcher should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is still needed, the language is known and

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a language-appropriate authorized interpreter is available in the Communications Center, the dispatcher should immediately connect the LEP caller to the authorized interpreter.

If no authorized interpreter is available or the dispatcher is unable to identify the caller's language, the dispatcher will contact the contracted telephonic interpretation service and establish a three-party call connecting the dispatcher, the LEP individual and the interpreter.

Dispatchers should be courteous, patient and respectful when dealing with the public.

### 802.5.1 EMERGENCY CALLS

A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety assistance is of the utmost importance. A person reporting an emergency should not be placed on hold until the dispatcher has obtained all necessary information to ensure the safety of the responding [department/office] members and affected individuals.

Emergency calls should be dispatched immediately. The Watch Commander shall be notified of pending emergency calls for service when [department/office] members are unavailable for dispatch.

### 802.5.2 NON-EMERGENCY CALLS

A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the dispatcher to handle a higher priority or emergency call.

The reporting person should be advised if there will be a delay in the dispatcher returning to the telephone line or when there will be a delay in the response for service.

## 802.6 RADIO COMMUNICATIONS

The police radio system is for official use only, to be used by dispatchers to communicate with [department/office] members in the field. All transmissions shall be professional and made in a calm, businesslike manner, using proper language and correct procedures. Such transmissions shall include, but are not limited to:

(a) Members acknowledging the dispatcher with their radio identification call signs and current location.

(b) Dispatchers acknowledging and responding promptly to all radio transmissions.

(c) Members keeping the dispatcher advised of their status and location.

(d) Member and dispatcher acknowledgements shall be concise and without further comment unless additional information is needed.

The Communications Manager shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant's supervisor and processed through the chain of command.

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802.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE
Palo Alto Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

802.6.2 RADIO IDENTIFICATION
Radio call signs are assigned to [department/office] members based on factors such as duty assignment, uniformed patrol assignment and/or member identification number. Dispatchers shall identify themselves on the radio with the appropriate station name or number, and identify the [department/office] member by his/her call sign. Members should use their call signs when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate [department/office] member. Members initiating communication with other law enforcement or support agencies shall use their entire radio call sign, which includes the [department/office] station name or number.

## 802.7 DOCUMENTATION
It shall be the responsibility of the Communications Center to document all relevant information on calls for service or self-initiated activity. Dispatchers shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

- Incident control number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident reported.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member’s arrival.
- Time of member’s return to service.
- Disposition or status of reported incident.

## 802.8 CONFIDENTIALITY
Information that becomes available through the Communications Center may be confidential or sensitive in nature. All members of the Communications Center shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

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Automated data, such as Department of Motor Vehicle records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel. Prior to transmitting confidential information via the radio, an admonishment shall be made that confidential information is about to be broadcast.

## 802.9 TRAINING AND CERTIFICATION

Dispatchers shall receive training consistent with minimum standards established by POST (Penal Code § 13510).

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# Property and Evidence Section

### 804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

### 804.2 POLICY

It is the policy of the Palo Alto Police Department to process and store all property in a manner that will protect it from loss, damage, or contamination, while maintaining documentation that tracks the chain of custody, the location of property, and its disposition.

### 804.3 DEFINITIONS

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

**Safekeeping** - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

**Found property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

### 804.4 PROPERTY HANDLING

(a) **Taking Property -** Employees who take property into custody shall, in every instance, place all property obtained in the course of his or her employment in the Department's property system prior to going off duty. In no instance shall property be stored in a personal locker, desk, or other unauthorized locations.

(b) **Documentation -** The employee will prepare a case report or follow-up report and an item submission form describing how, what, when, and where he/she came into possession of the property.The employee shall affix the evidence barcode label on the property item or property item container.

(c) **Inquires -** The employee will make appropriate inquires into the State Department of Justice computer regarding serialized or identifiable items of property to determine if the property is reported stolen

#### 804.4.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

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(a) Complete the property form in the evidence management system describing each item of property separately, listing all serial numbers, owner’s name, finder's name, and other identifying information or markings.

(b) Affix the barcode label to the property item or container as to not deface or damage the value of the property.

(c) The property shall be stored in a temporary storage locker outside the evidence area until it is received by the Property Technician.

(d) For large items that do not fit in the evidence lockers, store the item in the temporary storage locker and email/notify the Property Technicians of the items.

(e) A copy of the item submission for shall be included with the police report.

### 804.4.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs will be packaged in plastic heat seal bags and heat sealed by the person processing the property/evidence. The gross weight (narcotic substance, packaging and the weight of the sealed bag) will be indicated on the evidence sticker on the sealed bag.

If a large amount or type of narcotic or dangerous drug prohibits the use of plastic heat seal bags, other types of containers may be used. However, all containers will be sealed sufficiently to prevent tampering.

Marijuana plants will be packaged in a manner which will allow them to dry out. Each plant will be tagged with the case number written on the tag. When the plants are dry, they will be packaged for long term storage by the property and evidence technician. Marijuana plants will not be weighed, but will be photographed and counted and described by height and any further detail on the property sheeting RIMS. Associated Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall submit the associated information into RIMS under the correct case number before placing them in the designated locker.

### 804.4.3 EXPLOSIVES

Explosives that are known or suspected to be armed or live, other than fixed ammunition, should not be brought to the police facility. All fireworks, railroad flares, or fuses that are considered safe will be transported to the Municipal Service Center to be stored in the locked Hazardous Materials Evidence Shed.Any person placing evidence in the shed shall notify the Property/ Evidence Technicians of the items placed there for proper labeling and processing.

Officers who encounter an explosive device shall immediately notify their immediate supervisor and/or Watch Commander. The Bomb Squad will be called to handle situations involving explosive devices and all such devices will be released to them for disposal.

The District Attorney's office should be contacted to determine the necessity for retaining the explosive material for evidence.

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### 804.4.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

(a) Bodily fluids such as blood or semen stains shall be air dried prior to booking. Wet Items shall be air dried in the temporary storage room. The officer who submitted these items shall be responsible for returning to the temporary storage room and submitting the items into the property room.

(b) License plates found not to be stolen or connected with a known crime, should be released directly to the property and evidence technician, or placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required.

(c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the property and evidence technician, or placed in the bicycle storage area until a property and evidence technician can log the property.

(d) Allcash shall be packaged in heat sealed plastic bags and stored in the safe located inside of the property room.The money shall be counted by two police department employees prior to booking and a barcode label shall be placed on the heat sealed bag.Both employees should initial the heat seal.The property sheet should indicate the numbered denominations of each type of bill booked and the names of the two persons who counted the money.

(e) When property room personnel release money, they shall seek out an ISD supervisor or another employee of equal or superior rank and open the sealed bag in their presence.The money shall be counted at that time.

(f) When money is deposited in the city's Revenue Collections Facility, the property room personnel shall fill out a Transit Tag indicating the case number and the amount being deposited.The staff of Revenue Collections will verify the amount and sign the Transit Tag, acknowledging receipt of the cash.One copy of that receipt shall be affixed to the original property report, the other maintained in the property room file or a copy may be scanned into the evidence management system.A hard copy of the transactions shall be maintained by the Property/Evidence Technician.

(g) City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner

### 804.4.5 RELINQUISHED FIREARMS

Individuals who relinquish firearms who are subject to the relinquishment provisions of Penal Code § 29810(a)(1) shall be issued a receipt that describes the firearm, the serial number, or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold, or otherwise transferred, unless (Penal Code § 29810):

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(a) A certificate is issued by a judge of a court of record or the [District/CountyAttorney] stating the firearms shall be retained; or

(b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or

(c) The Automated Firearms System indicates that the firearm was reported lost or stolen.

1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The property and evidence technician shall ensure the Records Manager is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (see the Technical Services Division Policy).

### 804.5 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

(a) Narcotics and dangerous drugs.

(b) Syringes shall be placed in the puncture proof tubes provided in the evidence packaging area. An exception to this would be new, unused syringes that are still in the original factory package.

(c) Firearms - an employee accepting custody of a firearm shall insure that the firearm is unloaded prior to accepting it. When the firearm is taken into custody in a loaded status (i.e., taken from a suspect), the officer taking the firearm into custody shall unload it as soon as possible and always before transferring custody to another person. All firearms will be handled and transferred from one person to another with cylinders open, magazines removed, bolts opened and locked and chambers cleared, safety on.

(d) If for some reason such as damage, malfunction, or maintaining the firearms condition for evidentiary purposes, the firearm cannot be unloaded, the person having custody of it shall insure that the status is given to the person to whom the firearm is transferred. If the loaded firearm is deposited into a temporary storage locker, it will be clearly marked and a explanation of its loaded status attached for the property and evidence technician to read. The property and evidence technician shall make arrangements for unloading any firearms that were not unloaded prior to securing them into the property/ evidence room.

(e) The Property/Evidence Technician will maintain a log of all older case firearms that are retained for destruction.The log will contain the case number, make, model, serial number and disposition.All newer case firearm dispositions will be maintained in the evidence management system.

(f) Flammables - Per Palo Alto Fire Code §79.201(E), flammable liquids shall not be stored at the Police Department.If it is necessary to retain flammable liquids that are considered safe in their present form, the liquids shall be transported to the Municipal Service Center to be stored in the locked Hazardous Materials Evidence Shed.Any

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person placing evidence in the shed shall notify the Property/Evidence Technicians of the items placed there for proper labelling and processing. The District Attorney's office advises that in misdemeanor cases such as siphoning gas, the gasoline does not need to be retained as evidence. Photos of suspect and evidence should be taken and placed into evidence, identified with case number. In felony cases, the District Attorney's office should be contacted and asked whether the flammable material should be retained as evidence or whether it may be disposed of. Paraphernalia as described in Health & Safety Code § 11364 and Business and Profession Code § 4140.

(g) Perishables - Perishable items such as shoplifted food shall not be brought to the police station as evidence. They should be photographed and returned to the storekeeper. The case number and date should be shown in the photograph. When possible, price tags shall be retained to show the value of the items taken. No perishable items will be retained for safekeeping since we have no sanitary means to store them. Perishable items shall be disposed of by the officer and not be booked into the property room.

(h) Items submitted for processing for Latent Fingerprints - These items shall be packaged in such a manner that the property and evidence technician will be able to remove them from the temporary storage lockers without contaminating the items(s) with their own fingerprints. The employee should indicate within the evidence management system that a specific item has a need for lab processing.

(i) Trace Evidence - Items that are suspected to contain trace evidence shall be packaged and sealed in such a manner to protect them from any cross contamination with any other items, and to ensure that the suspected trace evidence is not lost during transportation and storage.

(j) Bio-hazards - Any item that is suspected to contain any bodily fluid, or is in any way suspected of representing a threat to personnel, who may handle the item, must be clearly marked as such. The item submission form shall also have a notation that a bio-hazard is suspected. This designation can be accomplished with the provided "Bio-Hazard" labels, or clear and prominent labeling by the submitting officer. The property room should not be considered a conduit for the disposal of bio-hazard materials. Officers who come into possession of such items that are not of any evidentiary value shall dispose of the item(s) at the Stanford Hospital Emergency room.

### 804.5.1 PACKAGING NARCOTICS

Narcotics and dangerous drugs shall be packaged in heat sealed bags.

If the substance requires laboratory analysis, the employee should package the substance in the clear bag with the label affixed.The employee should fill out the label on the bag, place the substance in the bag, heat seal the bag and write their initials over the heat seal.The gross weight of the bag and the substance (without the barcode label) should be documented in the evidence management system. The chain of evidence shall be recorded on the label.

Narcotics and dangerous drugs shall not be packaged with other property.

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## 804.6 RECORDING OF PROPERTY

The Property and Evidence Technician receiving custody of the evidence or property shall scan in each item and assign the item to a location within the evidence room using the evidence management system. Any changes in the location of property held by the Palo Alto Police Department shall be noted within the evidence management system.

## 804.7 PROPERTY CONTROL

Each time the property and evidence technician receives property or releases property to another person, he/she shall enter this information on the property control card. Officers desiring property for court shall contact the property and evidence technician at least one day prior to the court day.

### 804.7.1 RESPONSIBILITY OF OTHER PERSONNEL

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Property Technician. This request may be filled out any time after booking of the property or evidence.

### 804.7.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

It shall be the responsibility of the Evidence Technician to submit and transport items requiring further analysis to and from the Santa Clara County Crime Laboratory. All transport of items shall be documented in the proper evidence management system.

### 804.7.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time, and to whom released.

The property and evidence technician shall obtain the signature of the person to whom property is released and the reason for release. Any member receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

### 804.7.4 AUTHORITY TO RELEASE PROPERTY

The Investigative ServicesCaptain shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

### 804.7.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the

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property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A property and evidence technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Technical Services Division for filing with the case. If some items of property have not been released, the property card will remain with the Property and Evidence Section. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The Property and Evidence Section Supervisor should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

### 804.7.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Deprtment may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

### 804.7.7 RELEASE OF FIREARMS IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm or ammunition, the property and evidence technician shall return the weapon or ammunition to the owner if the requirements of Penal Code § 33850

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and Penal Code § 33855 are met, unless the firearm or ammunition is determined to be stolen, evidence in a criminal investigation, another successive order has been issued against the individual, or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 29825.5; Penal Code § 33855).

804.7.8 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms, other deadly weapons, or ammunition confiscated or relinquished from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

(a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) that conforms to the provisions of Penal Code § 33865.

(b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the firearm or weapon is not retained as evidence, the Department shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.

(c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed, or retained as provided in Welfare and Institutions Code § 8102.

804.7.9 WITHDRAWAL AND RETURN OF EVIDENCE

An integral part of effective management of a property/evidence function is adequate control and recording of withdrawal and return of evidence. Transferring possession of evidence from one person to another is known as the chain of possession. Accurate records of each change of possession are paramount for prevention of tainted evidence, loss of evidence and for effective prosecution of a case. Properly controlled chain of possession of evidence and also prevent embarrassment to the Department and discipline of employees. Adherence to the procedures set forth in this policy will result in the complete recording of each change of possession and location of all evidence. The last person in the chain shall be the person who has custody of and is responsible for the proper care and preservation of the evidence.

DEFINITIONS:

INTRA-AGENCY: The property/evidence does not leave the Palo Alto Police Department (i.e., viewing for identification).

INTER-AGENCY: The property/evidence does leave the Palo Alto Police Department (i.e., laboratory examination or court).

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RETURN OF PROPERTY: Return of property as used in this order, means return to the custody of the Property Technician.

804.7.10 PROCEDURE

(a) Withdrawal for intra-agency reasons:

1. **Who Can Request Withdrawal** - only the employee assigned to investigate a case or an employee authorized by that person will be permitted to withdraw evidence;
2. **Advance Notice** - the employee desiring to withdraw evidence will give the Property Technician advance notice of which evidence is needed and when it is needed;
3. **Property Technician Responsibility** - the Property Technician will retrieve the evidence from storage and assemble it for release at the pre-arranged time. The Property/Evidence Technician shall record the transaction in the evidence management system. The employee receiving the evidence will sign the record acknowledging receipt.

(b) Withdrawal for inter-agency reasons: In addition to 1-3 above, the following will also occur whenever the property is withdrawn for inter-agency purposes:

1. **Transfer Documentation** -The Property/Evidence Technician will record the transfer of the property in the evidence management systm indicating the name of the person withdrawing the property, the destination of the property and the barcode number.

(c) **Return ofevidence**: The employee returning property to the evidence room shall place the evidence in a locker and secure the lock.

(d) **Discrepencies:** The Investigative Services Division supervisor will be notified as soon as possible of any discrepencies between the evidence withdrawn ad the evidence returned.

(e) **Evidence Romm Safe Access:** Only the two full time Property/Evidence Technicians and the hourly Property/Evidence Technician shall have the combination to the evidence room safe.

All money and jewelry made of precious metal and stones shall be stored in the evidence room safe. All items stored in the safe shall be assigned a case number and item number and logged into the evidence management system.

804.7.11 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS
Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order, verification that the person is not otherwise legally prohibited from possessing a firearm,

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and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18108; Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, they are entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Palo Alto Police Department determines the person to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

#### 804.7.12 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

### 804.8 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The property and evidence technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

#### 804.8.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 25700; Penal Code § 26110; Penal Code § 26395; Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)

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- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

### 804.8.2 DESTRUCTION OF FIREARMS AND OTHER PROPERTY

The Property and Evidence Section supervisor or the authorized designee shall develop and maintain guidelines and procedures relating to the destruction of firearms and other weapons that includes but is not limited to the following (Penal Code § 18005);

(a) Identification of firearms and other weapons that need to be destroyed.

(b) Maintenance of records of firearms and other weapons that need to be destroyed, including entry into the Automated Firearms System, as applicable, and records of the destruction and disposal of those firearms and other weapons.

(c) Identification of any law enforcement agency that the Department contracts with or has an agreement with related to the storage or destruction of firearms or other weapons that outlines the responsibilities of this department and the other agency.

1. If the Department contracts with a third-party for destruction of firearms or other weapons, the contract must explicitly prohibit the sale of any firearm or weapon or any part of attachment to the firearm or weapon.

The Property and Evidence Section supervisor or the authorized designee should ensure guidelines and procedures relating to the destruction of firearms and other weapons are posted on the Palo Alto Department website (Penal Code § 18005).

### 804.8.3 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than $15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this Department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

### 804.8.4 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Section Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

(a) The defendant

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(b) The defendant's attorney

(c) The appropriate prosecutor and Attorney General

(d) Any sexual assault victim

(e) The Investigative Services Division supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Property and Evidence Section Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made to inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 180 days of the date of the notification. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigative Services Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Investigative Services Division supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

### 804.8.5 AUTHORITY FOR DISPOSAL PROCEDURE

Upon a confirmed determination of a case's final adjudication, the Property Technician will review the original police report to ascertain the appropriate disposition of property/evidence as described in this order. In the instances where it is not clear, based on the police report, whom the property should be released to, or if it should be considered contraband, the Property/Evidence Technician will speak to the investigating officer seeking written direction as to how to proceed with the disposition of the property/evidence.

### 804.8.6 RETURN OF PROPERTY TO OWNER OR CLAIMANT

Upon a determination that property/evidence should be returned to an owner or claimant, the Property Technician will prepare a property release notice letter and mail it to the owner of the property.

(a) **Owner Responds** - if the owner of the property responds, the property will be released only after proof of ownership and satisfactory identification have been presented to the Property Technician. Proof of ownership may be determined by possession of receipt, bill of sale, court decision, or undisputed claim to right of the property. Driver's licenses, passports, military identification or other identification with a photograph is considered satisfactory identification. If the property owner has no

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identification bearing a photograph, the Property Technician will determine whether or not identification is satisfactory.

1. The Property/Evidence Technician will require the owner of the property to place their signature into the evidence management system upon taking possession of the property.

(b) **Owner Does Not Respond** - if the owner does not claim the property within 30 days after notification is mailed, the property will be disposed of in accordance with the provisions of this order.

804.8.7 DISPOSAL BY SALE/AUCTION

(a) **Unclaimed Property** - property which is not claimed by the owner may be sold at auction in accordance with Palo Alto Municipal Code § 2.30.170

(b) **Auctions** - will be arranged by the Purchasing Department. The Property Technician will complete a "Surplus Supplies & Equipment" form listing the property to be sold and deliver the form and property to the Stores facility at the Municipal Service Center. He/she will obtain the signature of the Stores facility staff acknowledging receipt of the property and retain a copy of the surplus supplies form. Municipal Code 2.31.040

804.8.8 DISPOSAL BY AGENCE USE

Civil Code § 2080.4 and Penal Code § 1411 provide that if a city or county has enacted an enabling ordinance, certain unclaimed property held in the custody of the agency may be retained for the agency or other public use, rather than being sold or destroyed (Penal Code §§ 12028 and 12030 provide the authority for acquisition of firearms for agency use). Requests for retention of property for Department use will be recorded on a "Surplus Property Form" with the statement "Request retention of listed property for Department use pursuant to Civil Code § 2080.4, and Penal Code § 1411. The request will be signed by the Chief of Police and the Director of Purchasing. A copy of the Surplus Supplies Form shall be retained in the property room.

(a) **Firearms** - if the property to be retained by the Department is a firearm, the Property Technician will also cause an entry to be made into the Department of Justice automated firearms system institution file.

(b) **Personal Use** - under no circumstances will property acquired as evidence or found property be used for personal or non-Departmental purposes.

804.8.9 DISPOSAL BY DESTRUCTION

Controlled Substances and Associated Paraphernalia

**Destruction Pursuant to a Court Order** - drugs to be destroyed will be recorded on a drug destruction log and placed in a box for destruction. The Investigative Services Division Property Crimes Supervisor or their designee and Property Technician will inventory the drugs when the box is full. When all drugs listed on the destruction log are

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accounted for, the box will be sealed with tamper-proof tape. The supervisor and Property Technician will date and sign the seal.

The Property Technician will make application for a court order to destroy all controlled substances and associated paraphernalia except as provided in paragraph D-2 of this general order. The application will list descriptions, quantities, weights, docket number and the defendant's name for each item to be destroyed. Upon receipt of the court order, the Property Technician will arrange for the material to be destroyed as follows:

(a) By burning or another method approved by the Department head or designee. The destruction of the material will be witnessed by at least the Property Technician and two armed detectives from ISD.

Destruction will be accomplished on an as needed basis.

**Destruction Not Pursuant to a Court Order** - in instances when the weight of a suspected controlled substance is substantial and it is not reasonably possible to preserve the material in place or move it to another location. Controlled substance in excess of ten pounds, or the hazardous chemical, which was used or intended for use in the unlawful manufacture of controlled substances, and are in excess of two ounces and its container may be destroyed without a court order when all of the following conditions have been met:

(a) At least five random and representative samples of the suspected controlled substance (ten or more pounds) have been taken for evidence, and;

(b) At least one 2-ounce sample has been taken from each suspected hazardous chemical, and;

(c) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance or suspected hazardous chemical container, and;

(d) The gross weight of the suspected controlled substance or suspected hazardous chemical has been determined by either weighing or estimating after dimensional measurement, and;

(e) The Police Chief or designee has determined that it is not reasonably possible to preserve all of the suspected controlled substance or suspected hazardous chemical in place or suspected hazardous chemical in place or to move it to another location.

(f) An affidavit, stating that the above conditions have been met, will be filed in court within thirty days following the destruction of the suspected controlled substance or suspected hazardous chemical by the person causing the destruction.

(g) Records concerning the details of the compliance with Health and Safety Code § 11479 will be filed with the case report.

### 804.8.10 FIREARMS AND WEAPONS

Firearms defined as "Nuisances" by Penal Code § 12028 be destroyed by the Department. Destruction of firearms and weapons will be accomplished by melting, chopping, or some other means as equally destructive, in the presence of the Property Technician and will be witnessed by at least two armed police officers.

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The Property Technician will prepare and retain a list of all firearms and weapons which have been destroyed. The list will contain the make, model, type, caliber and serial number of each weapon destroyed and will be dated and signed by the Property Technician and witness. A copy of the list will be given to the Records Manager, who will be responsible for updating the automated firearms system.

The Property/Evidence Technician will record the destruction date of each firearm/weapon on the original property sheet with their signature or in the evidence management system.

Weapons defined as "Destructive Devices" by Penal Code § 12301 and machine guns described in Penal Code § 12251, which were unlawfully possessed, must be surrendered to the California Department of Justice unless a certificate, signed by a judge or district attorney, is filed with the California Department of Justice stating that the preservation of such destructive devices or machine guns is necessary to serve the ends of justice.

### 804.9 INSPECTIONS OF THE EVIDENCE ROOM

(a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

(b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.

(c) An annual audit of evidence held by the Department shall be conducted by a Division Captain (as appointed by the Chief of Police) not routinely or directly connected with evidence control.

(d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

### 804.10 SECURITY OF STORAGE AREAS

Property storage areas will be secured during all non-business hours and during business hours whenever the Property Technician is absent. The Property Technician and/or other authorized persons will be responsible for securing all areas upon leaving. When the Property Technician is absent the property storage areas may only be entered when:

(a) Emergency - a circumstance of emergency exists or access is necessary to store or retrieve property which cannot wait for the availability of the Property Technician.

(b) Authorization - the person entering the storage area must be authorized by the Investigative Services Division (ISD) Captain.

    1. Exception - an exception to the above two provisions is that the Watch Commander has access to the small storage cage for the purpose of storing large items in the absence of the Property Technician.

(c) Property Storage area keys: Only the following keys to the property storage areas are authorized:

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1. One complete set of keys (to the main property room, supplementary storage areas, all temporary storage lockers and the alarm system) will be assigned to the Property Technicians;
2. One complete duplicate set of keys will be assigned to the ISD Captain and kept in a secured designated place;
3. One key to the temporary storage room will be assigned to the Watch Commander;
4. Duplications or possession of keys to the property storage areas' alarms is prohibited without the express permission of the ISD Captain and the Chief of Police;
5. Locks to the property storage areas and the property storage areas' alarm system will be re-keyed and the safe combination changed whenever a Property Technician is reassigned.

### 804.10.1 REPORTING OF SUSPICIOUS CIRCUMSTANCES

The Property Technician will notify the Investigative Services Division (ISD) Captain immediately upon discovery of any signs of tampering, unauthorized entry, or other suspicious circumstances and will initiate a case report with complete details.

The ISD Captain will review the report and cause a formal investigation to be initiated if warranted.

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# Technical Services Division

## 806.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Palo Alto Police Department Technical Services Division. The policy addresses [department/office] file access and internal requests for case reports.

## 806.2 POLICY

It is the policy of the Palo Alto Police Department to maintain [department/office] records securely, professionally, and efficiently.

## 806.3 RESPONSIBILITIES

### 806.3.1 RECORDS MANAGER

The Chief of Police shall appoint and delegate certain responsibilities to a Records Manager. The Records Manager shall be directly responsible to the Administrative Services Division Captain or the authorized designee.

The responsibilities of the Records Manager include but are not limited to:

(a) Overseeing the efficient and effective operation of the Technical Services Division.

(b) Scheduling and maintaining Technical Services Division time records.

(c) Supervising, training, and evaluating Technical Services Division staff.

(d) Maintaining and updating a Technical Services Division procedure manual.

(e) Ensuring compliance with established policies and procedures.

(f) Supervising the access, use, and release of protected information (see the Protected Information Policy).

(g) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented. Sensitive reports may include, but are not limited to:

1. Homicides.
2. Cases involving [department/office] members or public officials.
3. Any case where restricted access is prudent.

### 806.3.2 TECHNICAL SERVICES DIVISION

The responsibilities of the Technical Services Division include but are not limited to:

(a) Maintaining a records management system for case reports.

(a) The records management system should include a process for numbering, identifying, tracking, and retrieving case reports.

(b) Entering case report information into the records management system.

1. Modification of case reports shall only be made when authorized by a supervisor.

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(c) Providing members of the [Department/Office] with access to case reports when needed for investigation or court proceedings.

(d) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of crime statistics. This includes reporting statistical data to the California Department of Justice (DOJ) for:

1. All officer-involved shootings and incidents involving use of force resulting in serious bodily injury (Government Code § 12525.2).
2. Suspected hate crimes (Penal Code § 13023).
3. Complaints of racial bias against officers (Penal Code § 13012; Penal Code § 13020).
4. Civilian complaints made against officers (Penal Code § 832.5; Penal Code § 13012).
5. Stop data required by Government Code § 12525.5 and 11 CCR 999.226.
    (a) The reported information must not contain personally identifiable information of the person stopped or other information exempt from disclosure pursuant to Government Code § 12525.5 (11 CCR 999.228).

(e) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.

(f) Identifying missing case reports and notifying the responsible member's supervisor.

(g) Updating the Automated Firearms System to reflect any firearms relinquished to the [Department/Office] and the subsequent disposition to the DOJ pursuant to Penal Code § 34010 (Penal Code § 29810).

(h) Maintaining compliance with the state and DOJ reporting requirements regarding the number of transfers of individuals to immigration authorities and offenses that allowed for the transfers (Government Code § 7284.6(c)(2)).

806.3.3 TECHNICAL SERVICES DIVISION PROCEDURE MANUAL
The Records Manager should establish procedures that address:

(a) Identifying by name persons in reports.

(b) Classifying reports by type of incident or crime.

(c) Tracking reports through the approval process.

(d) Assigning alpha-numerical records to all arrest records.

(e) Managing a warrant and wanted persons file.

## 806.4 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Palo Alto Police Department and no accusatory pleading has been filed, the person arrested may petition the [Department/Office] to destroy the related arrest records. Petitions should be forwarded to the Administrative Services Supervisor. The Administrative Services Supervisor should promptly contact the prosecuting

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attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Administrative Services Supervisor should forward the petition to the Investigative Services Supervisor and the City Attorney for review. After such review and consultation with the City Attorney, the Investigative Services Supervisor and the Administrative Services Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Administrative Services Supervisor shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California DOJ and other law enforcement agencies (Penal Code § 851.8).

The Administrative Services Supervisor should respond to a petition with the [Department/Office]'s decision within 45 days of receipt. Responses should include only the decision of the [Department/Office], not an explanation of the analysis leading to the decision.

### 806.5 FILE ACCESS AND SECURITY

The security of files in the Technical Services Division must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a police [department/office] case, including field interview (FI) cards, criminal history records, and publicly accessible logs, shall be maintained in a secure area within the Technical Services Division, accessible only by authorized members of the Technical Services Division. Access to case reports or files when Technical Services Division staff is not available may be obtained through the Watch Commander.

The Technical Services Division will also maintain a secure file for case reports deemed by the Chief of Police as sensitive or otherwise requiring extraordinary access restrictions.

### 806.6 ORIGINAL CASE REPORTS

Generally, original case reports shall not be removed from the Technical Services Division. Should an original case report be needed for any reason, the requesting [department/office] member shall first obtain authorization from the Records Manager. All original case reports removed from the Technical Services Division shall be recorded on a designated report check-out log, which shall be the only authorized manner by which an original case report may be removed from the Technical Services Division.

All original case reports to be removed from the Technical Services Division shall be photocopied and the photocopy retained in the file location of the original case report until the original is returned to the Technical Services Division. The photocopied report shall be shredded upon return of the original report to the file.

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### 806.7 CONFIDENTIALITY

Technical Services Division staff has access to information that may be confidential or sensitive in nature. Technical Services Division staff shall not access, view, or distribute, or allow anyone else to access, view, or distribute any record, file, or report, whether in hard copy or electronic file format, or any other confidential, protected, or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies and the Technical Services Division procedure manual.

### 806.8 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The Field Services Division Captain should ensure a process is in place for when an individual is arrested and released and no accusatory pleading is filed so that the following occurs (Penal Code § 849.5; Penal Code § 851.6):

(a) The individual is issued a certificate describing the action as a detention.

(b) All references to an arrest are deleted from the arrest records of the [Department/ Office] and the record reflects only a detention.

(c) The California DOJ is notified.

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# Restoration of Firearm Serial Numbers

## 808.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

## 808.2 PROCEDURE

Any firearm coming into the possession of the Palo Alto Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

### 808.2.1 PRELIMINARY FIREARM EXAMINATION

(a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tubular magazine) as well as the chamber contents.

(b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.

(c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.

(d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

### 808.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

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### 808.2.3 OFFICER RESPONSIBILITY

The property and evidence technician receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

### 808.2.4 DOCUMENTATION

Case reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

### 808.2.5 FIREARM TRACE

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the property and evidence technician will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

## 808.3 BULLET AND CASING IDENTIFICATION

Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

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# Records Maintenance and Release

## 810.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of [department/office] records. Protected information is separately covered in the Protected Information Policy.

## 810.2 POLICY

The Palo Alto Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 7920.000 et seq.).

## 810.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

(a) Managing the records management system for the [Department/Office], including the retention, archiving, release, and destruction of [department/office] public records.

(b) Maintaining and updating the [department/office] records retention schedule including:

1. Identifying the minimum length of time the [Department/Office] must keep records.
2. Identifying the [department/office] division responsible for the original record.

(c) Establishing rules regarding the inspection and copying of [department/office] public records as reasonably necessary for the protection of such records (Government Code § 7922.525; Government Code § 7922.530).

(d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.

(e) Establishing rules regarding the processing of subpoenas for the production of records.

(f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 7922.530).

(g) Determining how the [department/office]'s website may be used to post public records in accordance with Government Code § 7922.545.

(h) Ensuring that all [department/office] current standards, policies, practices, operating procedures, and education and training materials are posted on the [department/office] website in accordance with Penal Code § 13650.

(i) Ensuring that public records posted on the [Department/Office] website meet the requirements of Government Code § 7922.680 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.

(j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 7922.700) is publicly available upon request and posted

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in a prominent location on the [Department/Office]'s website (Government Code § 7922.710; Government Code § 7922.720).

## 810.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any [department/office] member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

### 810.4.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access unrestricted records of this [department/office], during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 7922.530).

The processing of requests for any record is subject to the following (Government Code § 7922.530; Government Code § 7922.535):

(a) The [Department/Office] is not required to create records that do not exist.

(b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain [department/office] records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 7923.655).

(c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the [Department/Office] shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.

1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 7922.600).

2. If the record requested is available on the [department/office] website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.

(d) Upon request, a record shall be provided in an electronic format utilized by the [Department/Office]. Records shall not be provided only in electronic format unless specifically requested (Government Code § 7922.570; Government Code § 7922.580).

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(e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.

1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the [department/office]-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

(f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure. The written response shall also include the names, titles, or positions of each person responsible for the denial (Government Code § 7922.000; Government Code § 7922.540).

## 810.5 RELEASE RESTRICTIONS

Examples of release restrictions include:

(a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any [department/office] record, including traffic collision reports, are restricted except as authorized by the [Department/Office], and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).

(b) Social Security numbers (Government Code § 7922.200).

(c) Personnel records, medical records, and similar records that would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 7927.700; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).

1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.

2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police, or as required by law.

(d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking (Penal Code § 293)). Addresses and telephone numbers of a victim or a witness shall not be disclosed to any arrested person or to any person who may be a defendant in a criminal action unless it is required by law (Government Code § 7923.615; Penal Code § 841.5).

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1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, a copy of any accompanying or related photographs of the victim's injuries, property damage, or any other photographs that are noted in the incident report, and a copy of 9-1-1 recordings, if any, pursuant to the requirements and time frames of Family Code § 6228.
2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).

(e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 7923.750.

(f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 7923.605).

1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 7923.605.

(g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the [District/CountyAttorney], the City Attorney, or the courts pursuant to Penal Code § 1054.5.

(h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).

(i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure § 130).

(j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 7923.800).

(k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

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(l) Any record created exclusively in anticipation of potential litigation involving this [department/office] (Government Code § 7927.200).

(m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 7927.205).

(n) Records relating to the security of the [department/office]'s electronic technology systems (Government Code § 7929.210).

(o) A record of a complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(9)).

(p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 7927.705).

(q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

## 810.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the [Department/Office] so that a timely response can be prepared.

## 810.7 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the [department/office] name and to whom the record was released.

Each audio/video recording released should include the [department/office] name and to whom the record was released.

## 810.8 SEALED RECORD ORDERS

Sealed record orders received by the [Department/Office] shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or

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conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Records Manager shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

#### 810.8.1 SEALED JUVENILE ARREST RECORDS

Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Records Manager should ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

## 810.9 SECURITY BREACHES

The Records Manager shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any [Department/Office] information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the [Department/Office] determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following (Civil Code § 1798.29):

(a) Social Security number

1. Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
2. Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
3. Medical information
4. Health insurance information
5. Information or data collected by Automated License Plate Reader (ALPR) technology
6. Unique biometric data

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7. Genetic data

(b) A username or email address, in combination with a password or security question and answer that permits access to an online account

### 810.9.1 FORM OF NOTICE

(a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:

1. The date of the notice.
2. Name and contact information for the Palo Alto Police Department.
3. A list of the types of personal information that were or are reasonably believed to have been acquired.
4. The estimated date or date range within which the security breach occurred.
5. Whether the notification was delayed as a result of a law enforcement investigation.
6. A general description of the security breach.
7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.

(b) The notice may also include information about what the Palo Alto Police Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).

(c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):

1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the [Department/Office] in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
2. When the breach involves an email address that was furnished by the Palo Alto Police Department, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

### 810.9.2 MANNER OF NOTICE

(a) Notice may be provided by one of the following methods (Civil Code § 1798.29):

1. Written notice.

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2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
3. Substitute notice if the cost of providing notice would exceed $250,000, the number of individuals exceeds 500,000 or the [Department/Office] does not have sufficient contact information. Substitute notice shall consist of all of the following:
    (a) Email notice when the [Department/Office] has an email address for the subject person.
    (b) Conspicuous posting of the notice on the [department/office]'s webpage for a minimum of 30 days.
4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.

(b) If a single breach requires the [Department/Office] to notify more than 500 California residents, the [Department/Office] shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

## 810.10 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 7923.625).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 7923.625).

The Custodian of Records should work as appropriate with the Chief of Police or the Internal Affairs Unit supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

### 810.10.1 DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

(a) Disclosure may be delayed up to 45 days from the date the [Department/Office] knew or reasonably should have known about the incident.

(b) Delay of disclosure may continue after the initial 45 days and up to one year if the [Department/Office] demonstrates that disclosure would substantially interfere with the investigation.

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(c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 7923.625).

### 810.10.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 7923.625):

(a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.

(a) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

### 810.10.3 REDACTION

If the Custodian of Records, in consultation with the Chief of Police or the authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the [Department/Office] should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 7923.625).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 7923.625).

### 810.10.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the [Department/Office] may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 7923.625):

(a) The person in the recording whose privacy is to be protected, or the person's authorized representative.

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(b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.

(c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the [Department/Office] determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 7923.625).

The [Department/Office] may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 7923.625).

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# Protected Information

## 812.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Palo Alto Police Department. This policy addresses the protected information that is used in the day-to-day operation of the [Department/Office] and not the public records information covered in the Records Maintenance and Release Policy.

### 812.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Palo Alto Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

## 812.2 POLICY

Members of the Palo Alto Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

## 812.3 RESPONSIBILITIES

The Chief of Police shall select a member of the [Department/Office] to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

(a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).

(b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.

(c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.

(d) Developing procedures to ensure training and certification requirements are met.

(e) Resolving specific questions that arise regarding authorized recipients of protected information.

(f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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## 812.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Palo Alto Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

### 812.4.1 PENALTIES FOR MISUSE OF RECORDS

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

## 812.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Manager for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the [Department/Office] may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Technical Services Division to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

### 812.5.1 REVIEW OF CRIMINAL OFFENDER RECORD

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

Individuals shall be allowed to review their arrest or conviction record on file with the [Department/Office] after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

### 812.5.2 TRANSMISSION GUIDELINES

Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio, except as provided in 812.9 below. When circumstances reasonably indicate that the immediate

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safety of officers, other [department/office] members, or the public is at risk, only summary information may be transmitted.

Nothing in this policy is intended to prohibit broadcasting warrant information.

## 812.6 SECURITY OF PROTECTED INFORMATION

The Chief of Police will select a member of the [Department/Office] to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

(a) Developing and maintaining security practices, procedures and training.

(b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.

(c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.

(d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

### 812.6.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

## 812.7 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

## 812.8 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

## 812.9 RADIO COMMUNICATION PROCEDURES

The Palo Alto Police Department is authorized by the California Department of Justice to access the California Law Enforcement Telecommunications System (CLETS) and must adhere to the requirements detailed in the CLETS Policies, Practices and Procedures (PPP) and in the Federal Bureau of Investigation Criminal Justice Information Services (CJIS) Security Policy to ensure the

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confidentiality and integrity of the data therein. Access to certain Criminal Justice Information (CJI) and personally Identifiable Information (PII) must be limited to authorized personnel.

Only authorized law enforcement, criminal justice personnel or their lawfully authorized designees may use a CLETS terminal or have access to information derived from CLETS. Any information from the CLETS is confidential and for official use only.

Generally, PII is information that can be used to distinguish or trace an individual's identity, such as an individual's first name, or first initial, and last name in combination with any one or more specific data elements (see FBI CJIS Security Policy section 4.3, and California Penal Code section 530.55(b)). These data elements most commonly include date of birth and driver license (or identification card) number. Great care needs to be exercised by Police Department staff, especially when transmissions are made on an unencrypted radio talkgroup.

The intent of this procedure is to provide for radio transmissions over an unencrypted talkgroup wherever possible while using safeguards intended to prevent or substantially minimize the unencrypted broadcast of PII or CJI.

In California law, PC 530.55(b), PII includes the following data elements: name, date of birth, address, phone number, taxpayer ID number, DL, social security number, health insurance number, account numbers, mother's maiden name, PIN, government ID numbers, passwords, other electronic data information, etc.

Transmission of any of the above data elements must be in separate radio transmissions when broadcast on an unencrypted talkgroup.

**Field Personnel**

When running a wants / warrant / license status check on a subject, field personnel have the discretion to utilize any one of the permissible options below to communicate the necessary information to Communications while still safeguarding PII.

Use the radio to transmit only the subject's name and DOB, parsing out the data into two separate radio transmissions (one being the name, the other being the date of birth).

Use the radio to transmit the subject's driver license (or identification card) number only.

Use a phone to provide any and all information. Communications will provide the return via the radio, so all field personnel can hear the result. (Note: This is likely the best option to use when there is a discrepancy in the identity of the person, as you can relay other governmental ID numbers, full addresses, and other useful information over a phone line while securing PII and CJI.)

(Note that the default practice by Communications will not automatically include the DL number in the response to help protect PII.)

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At all other times (e.g., when not running a wants/warrant/license status check on a subject), department personnel will take appropriate safeguards to prevent or substantially minimize the unencrypted broadcast of PII or CJI.

**Communications Personnel**

In accordance with CLETS procedures and the CJIS Security Policy, Communications personnel should take the following into account when transmitting requested returns over any unencrypted talkgroup:

When verifying a subject's name and date of birth, transmit the response in two separate transmissions.

Physical characteristics of persons are not considered PII and may be transmitted over the radio.

Any broadcast of a driver license (or identification card) number or other governmental identification number should occur in a separate transmission, apart from the name, date of birth, or other PII.

When providing wants / warrant / license status CLETS returns, safeguard PII by only broadcasting the subject's last name if field personnel ran the query by driver license (or identification card) number only.

Addresses: When dispatching a call for service, broadcast the full address of the incident. When an officer requests that a full address be communicated over the radio, respond accordingly. When an officer asks forverification of a person's address of record to aid in their identification, Communications should respond with the first three digits of the street address and the city of residence (not the street name) to minimize the broadcasting of information that could constitute PII.

Vehicles: License plate numbers may be broadcast on the radio, as can the vehicle make and model. When an officer asks for verification of the registered owner and address of a vehicle, Communications personnel should broadcast the name of the party, the first three digits of the street address and the city in which the vehicle is registered (not the street name). If an officer requestsa full address over the radio, respond accordingly.

Criminal history returns should not be broadcast over the radio, unless there is urgent need (e.g. if officer or public safety is at significant risk).

Premise history can be broadcast over the radio as a summary. Specific call details of premise history involving PII can be added to the CAD call unless there is urgent officer safety need (e.g. if officer or public safety is at significant risk) that requires broadcast over the radio.

Nothing shall preclude Communications personnel from broadcasting detailed officer safety information over the radio when there is urgent need (e.g. if officer or public safety is at significant risk). Also, PII may be added to the CAD call during the incident so that field personnel can refer to CAD to retrieve that information when it is safe for them to do so.

**Use of Encrypted Talkgroups**

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While the vast majority of radio transmissions will be made on unencrypted talkgroups, personnel may temporarily switch to an encrypted talkgroup in the following limited situations:

- During tactical operations, or other sensitive situations when the content of communications, if broadcast on an unencrypted talkgroup, would reasonably jeopardize public safety or the safety of officers
- During a response involving multiple agencies where use of an encrypted talkgroup is needed for interoperable radio communications

In these situations, the dispatcher should acknowledge that personnel are temporarily switching to an encrypted talkgroup, and request that the on-duty supervisor or Watch Commander do the same. Generally, when a patrol incident involves the use of an encrypted talkgroup, all field personnel should switch to the encrypted talkgroup unless directed otherwise by the watch commander.

Upon becoming aware of the use of an encrypted talkgroup, the Watch Commander should monitor and continually assess the situation and ensure the use is within the guidelines and requirements of this policy.

When using encrypted talkgroups, personnel may broadcast PII or CJI without restriction, as permitted by the CLETS Policies, Practices and Procedures (PPP) and in the Federal Bureau of Investigation Criminal Justice Information Services (CJIS) Security Policy.

### 812.10 POLICY ISSUE DATE

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# Computers and Digital Evidence

### 814.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

### 814.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

(a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.

(b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.

(c) If the computer is off, do not turn it on.

(d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.

1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).

(e) Label each item with case number, evidence sheet number, and item number.

(f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.

(g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.

(h) At minimum, officers should document the following in related reports:

1. Where the computer was located and whether or not it was in operation.
2. Who was using it at the time.
3. Who claimed ownership.

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4. If it can be determined, how it was being used.

(i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

### 814.2.1 BUSINESS OR NETWORKED COMPUTERS

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

### 814.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

(a) Copy of report(s) involving the computer, including the Evidence/Property sheet.

(b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.

(c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).

(d) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

## 814.3 SEIZING DIGITAL STORAGE MEDIA

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

(a) If the media has a write-protection tab or switch, it should be activated.

(b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request the Property and Evidence Section to copy the contents to an appropriate form of storage media.

(c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

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(d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

(e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

## 814.4 SEIZING PCDS

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

(a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.

(b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.

(c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

## 814.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

### 814.5.1 COLLECTION OF DIGITAL EVIDENCE

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

### 814.5.2 SUBMISSION OF DIGITAL MEDIA

The following are required procedures for the submission of digital media used by cameras or other recorders:

(a) The recording media (smart card, compact flash card or any other media) shall be brought to the Property and Evidence Section as soon as possible for submission into evidence.

(b) Officers are not authorized to review or copy memory cards. The evidence technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards.

(c) As soon as possible following the collection of evidence, the camera operator is to remove the memory card from their digital camera and place the card into a plastic

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carrier. The card and carrier are then to be placed into a zip-lock type baggie. The camera operator shall write their name and the related case number on the outside of the baggie before placing in the film drop box along with the evidence form.

(d) Evidence technicians will make a copy of the memory card using appropriate storage media. Once they have verified that the images properly transferred to the storage media, the technicians will erase the memory card for re-use. The storage media will be marked as the original.

(e) Officers requiring a copy of the digital files must request a copy on the evidence form when submitted to evidence.

### 814.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

(a) Files should not be opened or reviewed prior to downloading and storage.

(b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

### 814.5.4 PRESERVATION OF DIGITAL EVIDENCE

(a) Only evidence technicians are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.

(b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.

(c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

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# Animal Control

## 820.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals and responding to calls for service that involve animals.

## 820.2 [ANIMAL CONTROL] RESPONSIBILITIES

Animal control services are generally the primary responsibility of [Animal Control] and include:

(a) Animal-related matters during periods when [Animal Control] is available.

(b) Ongoing or persistent animal nuisance complaints. Such complaints may be scheduled, if reasonable, for handling during periods that [Animal Control] is available for investigation and resolution.

(c) Follow-up on animal-related calls, such as locating owners of injured animals.

## 820.3 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation to determine the appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding members generally should not attempt to capture or pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

(a) There is a threat to public safety.

(b) An animal has bitten someone. Members should take measures to confine the animal and prevent further injury.

(c) An animal is creating a traffic hazard.

(d) An animal is seriously injured.

(e) The owner/handler of an animal has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.

1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
2. With the owner’s consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

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### 820.3.1 BARKING DOGS

Barking dog means a dog that barks, bays, cries, howls or makes any other noise continuously and incessantly for a period of ten minutes within a fifteen-minute period to the disturbance of any other person. Pursuant to Municipal Code § 6.20.140 "Barking dogs", "It is unlawful for any person to keep, maintain or permit in or upon any premises within the City any barking dog that is under the control of that person."

During the hours of 0800 to 1700, Monday-Sunday, these calls should be referred to the on-duty Animal Control Officer (ACO) through the Communications Center. If an ACO needs assistance during the investigation, they should request police back-up through the Communications Center.

During all other hours, calls should be referred to a police officer through the Communications Center. After investigating the complaint, if it meets the criteria for "Barking dog", the officer may issue an "Administrative Warning" (for the first offense) or an "Administrative Citation" (for subsequent offenses). The citing officer should hear the dog barking for a period of ten minutes within a fifteen-minute period to the disturbance of any other person.

If during the investigation it is found that the dog is in distress, an ACO should be asked to respond to the address and assist the police officer with further investigation. Off-hours the on-call ACO should be called through the Communications Center.

The ACO or police officer should fill out an Animal Incident Reporting Form and the Case Number should be assigned by Communications/Dispatch Center and indicated on the form. It is critical to have complete and accurate information on the form.

### 820.3.2 LEASH LAW VIOLATIONS

Leash law requirements include investigations based on response to citizen complaints or while performing regular patrol and seeing a dog off leash. Pursuant to Municipal Code § 6.16.100-Leash required, "No person owning or harboring any dog shall allow or permit such dog, whether licensed or not, to be upon a public street, sidewalk, park, school ground, public place or upon any unenclosed lot or land except when held under leash by an able-bodied person."

During the hours of 0800 to 1700, Monday-Sunday, these calls should be referred to the on-duty ACO through the Communications Center. Requirements for dogs being on leash are also enforced by ACOs or police officers while doing regular patrol within the City.

The first leash law violation may result in either a verbal or Administrative warning. All subsequent leash law violations may result in an Administrative citation being issued.

The ACO or police officer should fill out an Animal Incident Reporting Form, and the Case Number should be issued by the Communications Center and indicated on the form. It is critical to have complete and accurate information on the form.

## 820.4 DECEASED ANIMALS

When a member becomes aware of a deceased animal, all reasonable attempts should be made to preliminarily determine if the death of the animal is related to criminal activity.

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Deceased animals on public property should be removed, sealed in a plastic bag, and properly disposed of by the responding member.

Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

When handling deceased animals, members should attempt to identify and notify the owner of the final disposition of the animal.

## 820.5 INJURED ANIMALS

When a member becomes aware of an injured domesticated animal, all reasonable attempts should be made to contact an owner or responsible handler. If an owner or responsible handler cannot be located, the animal should be taken to a veterinarian and notice shall be given to the owner pursuant to the requirements of Penal Code § 597.1.

### 820.5.1 PERMITTING ANIMAL TO GO WITHOUT ADEQUATE CARE: SEIZURE HEARINGS

Police shall investigate reported complaints of animals not being provided adequate care, and should consult with Animals Services for assistance in determining the validity of the complaint. Those complaints relating to inadequate veterinary care should be referred to the City Veterinarian for assessment.

If after investigation an officer has reasonable grounds to feel that prompt action is required to protect the health or safety of the animal, or the health and safety of others, the officer shall immediately seize the animal and comply the following:

(a) Penal Code § 597.1(f) states "Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a post-seizure hearing to determine the validity of the seizure or impoundment, or both.

(b) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays.

(c) A statement that, in order to receive a post-seizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice with 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.

(d) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the

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owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(e) The post-seizure hearing shall be conducted with 48 hours of the request, excluding weekends and holidays. The seizing agency may authorizes its own officer or employee to conduct the hearing, if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(f) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure of impoundment of the animal."

If an animal is seized and impounded after determining that it is in need of protection or veterinary care, the ACO will transport it to the Animal Shelter or veterinarian. All animals seized or impounded are identified by a specific "animal number" and monitored through the Animal Services database.

### 820.5.2 VETERINARY CARE

The injured animal should be taken to a veterinarian as follows:

(a) During normal business hours, the animal should be taken to an authorized veterinary care clinic.

(b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency and Critical Care Services Clinic.

(c) An exception to the above exists when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.

Each incident shall be documented and, at minimum, include the name of the reporting party and veterinary hospital and/or person to whom the animal is released.

If [Animal Control] is not available, the information will be forwarded for follow-up.

### 820.5.3 INJURED WILDLIFE

Injured wildlife should be referred to the Department of Fish and Wildlife or the Marine Mammal Center as applicable.

### 820.5.4 RESCUE OF ANIMALS IN VEHICLES

If an animal left unattended in a vehicle appears to be in distress, members may enter the vehicle for the purpose of rescuing the animal. Members should (Penal Code § 597.7(d)):

(a) Make a reasonable effort to locate the owner before entering the vehicle.

(b) Take steps to minimize damage to the vehicle.

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(c) Refrain from searching the vehicle or seizing items except as otherwise permitted by law.

(d) Leave notice on or in the vehicle identifying the location where the animal has been taken and the name and [Department/Office] of the member involved in the rescue.

(e) Make reasonable efforts to contact the owner or secure the vehicle before leaving the scene.

(f) Take the animal to an animal care facility, a place of safekeeping or, if necessary, a veterinary hospital for treatment.

## 820.6 AGGRESSIVE OR DANGEROUS ANIMALS

### 820.6.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines and procedures for responding to aggressive/vicious behavior by domestic animals to both humans and other animals. This type of reported behavior is a priority call for Animal Control Officers (ACO's) and Police.

### 820.6.2 DEFINITION

Animals who display aggressive or vicious behavior may be referred to as a "Dangerous Animal". Dependent on the circumstances of the incident, it may include dogs chasing or harassing livestock. Dangerous Animal means any dog or other animal, which demonstrates a propensity to assault, bite, scratch or harass people or other animals without provocation.

There shall be a rebuttable presumption that any animal that bites a person is a dangerous animal.

### 820.6.3 PROCEDURE

Pursuant to Municipal Code § 6.28, all calls relating to aggressive/vicious behavior are to be considered priority calls.

Animal Control Officers (ACO's) will respond to aggressive calls 24-hours per day 7-days per week. After 5:00 P.M., the on-call ACO will respond to these calls through the Communications Center.

Police may be the first responder on these incidents and they should request an ACO through the Communications Center.

If an ACO needs assistance during the investigation, they should request Police back-up through the Communications Center.

The Animal Incident Reporting Form should be used to document "Aggressive/Vicious Behavior" investigations. Either the ACO or police officer should complete the form. The Case Number should be assigned by the Communications Center and indicated on the form. It is critical to have complete and accurate information on the form. The Description of the biting/aggressive animal is extremely important as well as licensing and/or rabies vaccination documentation. If a bite has occurred to a human, the "Bite and Quarantine Procedures" are in a separate section.

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If after investigating the circumstances of the aggressive/vicious behavior, it is found that an impound of the animal is required, a hearing regarding designation of "Dangerous Animal" will be held within ten (10) calendar days of the contact with the animal owner. Because of the restrictive time-line all reports are required in writing to PAAS Supervisor by the calendar day following the incident.

Any injuries to other animals need to be documented.

Photos by the Police or ACO are necessary regardless of whether it is involving a human or another animal. All photos should be handled as evidence.

If the aggressive/vicious behavior results in the death of another animal, the City Veterinarian can perform a necropsy. The City Veterinarian should be contacted immediately so that appropriate handling of the body can be provided to the officer on scene.

If at anytime there is need for clarification, contact either the PAAS Supervisor, Superintendent. For questions about medical issues, contact the City Veterinarian.

## 820.7 MOUNTAIN LIONS

### 820.7.1 PURPOSE AND SCOPE

Because the City of Palo Alto is situated near undeveloped open space, officers may, on occasion, be called upon to handle situations dealing with mountain lions. This unique call for service may be in the form of answering general questions regarding mountain lions, or in response to an emergency, which will require an officer to take the appropriate action for the protection of life and property. All officers shall familiarize themselves with this policy and adhere to the following guidelines.

### 820.7.2 POLICY

The Police Department and the Palo Alto Open Space Division are responsible for managing the presence of mountain lions within the City Limits. An expedient resolution to the presence of a mountain lion within a residential area may mitigate a potentially dangerous situation and thereby safeguard citizens and police personnel. The ultimate responsibility for public safety rests with the Police Department.

The California Fish and Game Code §4800 states that a mountain lion is a specially protected mammal under the laws of the state. It is unlawful to take, injure, possess, transport, import, or sell any mountain lion unless it can be demonstrated that the taking or injuring of the mountain lion was in self-defense or in the defense of others. A member of the Department may remove or take any mountain lion that is perceived to be an imminent threat to public health or safety. The mere presence of a mountain lion in an area frequented by humans does not make the mountain lion an "immediate threat" according to this policy.

### 820.7.3 PROCEDURE

The following are guidelines for Police Department personnel on managing and dealing with mountain lions found within the City of Palo Alto

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(a) Evaluate the threat and provide for public safety considerations that includes:

1. Monitoring the actions of the animal;
2. Location of the animal;
3. The time of day of the incident;
4. Pedestrian traffic in the area;
5. Schools and children in the area;
6. The ability to safely and effectively evacuate/lock-down facilities;
7. Secure the area of the incident/encounter;
8. Notify the Supervisor, Watch Commander and the FSD Captain;
9. Notify the City's Open Space Division, Department of Fish and Game; and County Vector Control;
10. Notify residents/businesses and school officials of the potential danger.

### 820.7.4 SIGHTINGS

It is recognized that the City of Palo Alto borders undeveloped areas where many species of wildlife exist. The mere sighting of a mountain lion is not necessarily a cause for concern or management action. Exceptions to this would be instances where the lion appears to be sick or injured, is in a residential neighborhood, or where the lion displays some abnormal behavior or condition.

When a sighting occurs in designated wildlife areas such as the foothills or creek corridors, Palo Alto Communications will notify the on-call Open Space Naturalist. The Naturalist will document the sighting on an Animal Incident and Observation Form.

If the sighting occurs on the east side of Junipero Serra Boulevard, the Naturalist will ask Communications to notify the on-duty Watch Commander via the computer with limited information being broadcasted over the Police radio. The Watch Commander will make a determination as to whether or not the animal is a threat to public safety based on the actions of the animal and the location of the incident.

If the Open Space Naturalist determines that the sighting is a recurring event, they will provide educational material on the respective wildlife to the public. They will also notify the Department of Fish and Game, County Vector Control and the appropriate adjacent agencies of the recurring mountain lion sightings.

### 820.7.5 ENCOUNTERS OR INCIDENTS

An encounter is an unexpected meeting between a human and a mountain lion. When an encounter occurs, Palo Alto Police Communications will immediately notify the Palo Alto Open Space Division and the Watch Commander.

During an encounter, animals will either display acceptable or unacceptable behavior.

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### 820.7.6 ACCEPTABLE BEHAVIOR

Acceptable behavior can be defined as any wildlife-human interaction where there is no unprovoked aggression from the animal toward the human. No immediate threats to humans exist. The lion is in, or is in close proximity to, uninhabited areas or regularly traveled corridors. All indications are that the lion will return to the wilderness area and will not compromise public safety.

(a) ACCEPTABLE BEHAVIOR INCLUDES:

1. A lion that retreats at the sight of humans;
2. A lion that takes an aggressive posture followed by retreating or no further aggression;
3. A lion that stays put while humans show no aggression;
4. A lion that shows signs of curiosity while humans show no aggression.

(b) ACCEPTABLE BEHAVIOR INVESTIGATION

1. The Palo Alto Police Department and Open Space Division will investigate the incident, obtain witness information, document the incident and evaluate any patterns. They will notify the Department of Fish & Game, if appropriate;
2. Close and secure the area until it can be safely re-opened;
3. Notify residents/businesses and school officials of the potential danger;
4. The Open Space Division will provide educational material on the respective wildlife to the public.

### 820.7.7 UNACCEPTABLE BEHAVIOR

Unacceptable behavior is when a lion displays unprovoked aggression, repetitive acts of nuisance, or unacceptable levels of damage to personal property, including domesticated animals. or when athreat to human life has occurred or is imminent and the lion's immediate departure to an uninhabited area is unlikely without further human contact and therefore is a threat to public safety.

(a) UNACCEPTABLE BEHAVIOR INCLUDES

1. A lion that displays unacceptable aggression;
2. A lion that exhibits forms of predatory behavior towards humans;
3. A lion that continues to disturb, raid, or investigate humans or areas of high usage;
4. A lion that displays a lack of fear of humans by aggressively approaching, or failing to retreat, when humans take aggressive actions;
5. A lion that stalks humans.

(b) UNACCEPTABLE BEHAVIOR INVESTIGATION

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1. Palo Alto Police Communications will immediately notify the Watch Commander and the City's Open Space Division via the computer with limited information broadcasted on the Police radio;
2. The Watch Commander will establish a command post to monitor the incident. Once again, Officers should constantly monitor the threat to public safety by evaluating the actions of the animal, location, time of day, the amount of pedestrians/traffic in the area as well as the ability to effectively evacuate and make notifications in a safe manner;
3. Establish a perimeter and deploy personnel to control the mobility of the animal;
4. Notify residents, businesses and schools in the area using the Alert SCC System and other approved systems;
5. Consider evacuations/lock-downs of public facilities including schools;
6. Consider air support to track the animal;
7. Notify County Vector Control and the Department of Fish and Game;
8. Assign a PIO and make press notifications and public service announcements;
9. Distribute fliers and educational materials if the animal is not contained.

The Palo Alto Police Department should attempt to dispatch a mountain lion when it can be reasonably determined that the lion has been involved in an unprovoked aggression toward a human and/or is a threat to public safety. Ensuring a safe a proper backdrop is essential prior to attempting to destroy the animal by using a firearm. All attempts must be made to insure that the fired round does not inadvertently cause injury or unnecessary damage, should it pass through the animal or the target is missed. Favorable backdrops to consider include large trees or the ground.

### 820.7.8 ATTACK

In the event of a mountain lion attack on a human, Palo Alto Police Communications will immediately notify the Watch Commander, the City's Open Space Division and dispatch units to the scene.

Officers will treat the attack as a critical incident and activate the SEMS System. The Police Department will:

(a) Attend to the medical needs of the victim;

(b) Secure the area;

(c) Notify the Department of Fish and Game and County Vector Control. The Fish and Game will send their Evidence Team Technicians to assist with processing the scene;

(d) Coordinate with the Fish and Game for the proper disposition of the animal;

(e) Work with the Fish and Game to collect evidence and process the scene.

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820.7.9 RESOURCES AND CONTACTS

- Department of Fish and Game Monterey Dispatch 831-649-2810 Non-public number 831-649-2817
- Santa Clara County Vector Control Noor Tietze (408) 918-3482 or (408) 210-5773 (cell)
- Palo Alto Open Space Naturalist 650-329-2382 (Cellular) 650-400-1960
- Air Support San Jose PD 408-277-8990 CHP 707-551-4200
- East Bay Regional Parks 510-537-2286

## 820.8 POLICY

It is the policy of the Palo Alto Police Department to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

## 820.9 ANIMAL CRUELTY COMPLAINTS

Laws relating to the cruelty to animals should be enforced, including but not limited to Penal Code § 597 et seq. (cruelty to animals, failure to care for animals).

(a) An investigation should be conducted on all reports of animal cruelty.

(b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty.

## 820.10 ANIMAL BITE REPORTS

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

## 820.11 STRAY DOGS

If a stray dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate animal care facility.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

## 820.12 DANGEROUS ANIMALS

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Watch Commander will be contacted to determine available resources, including requesting the assistance of animal control services from an allied agency.

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### 820.13 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Members should diligently address calls related to nuisance animals (e.g., barking dogs), as such calls may involve significant quality-of-life issues.

### 820.14 DESTRUCTION OF ANIMALS

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed. A badly injured animal shall only be euthanized with the approval of a supervisor.

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# Chapter 9 - Custody

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# Temporary Custody of Adults

## 900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Palo Alto Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

Additional guidance for transferring persons in custody to another facility or court is provided in the Transporting Persons in Custody Policy.

### 900.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

**Safety checks** - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

**Temporary custody** - The time period an adult is in custody at the Palo Alto Police Department prior to being released or transported to a housing or other type of facility.

## 900.2 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours. After this timeframe, a supervisor must review the situation to determine if continued custody is warranted.

### 900.2.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Palo Alto Police Department, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

(a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.

(b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while in temporary custody.

(c) Any individual who is seriously injured.

(d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).

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1. If the officer taking custody of an individual believes that the individual may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).

(e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.

(f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.

(g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to themselves or others (15 CCR 1053; 15 CCR 1055).

(h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).

(i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to the individual's health or safety.

(j) Any individual with an obvious developmental disability (15 CCR 1057).

(k) Any individual who appears to be a danger to themselves or others due to a behavioral crisis, or who appears gravely disabled (15 CCR 1052).

(l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).

(m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the [Department/Office] unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

### 900.2.2 STAFFING PLAN

The Chief of Police or the authorized designee shall ensure a staffing plan is prepared and maintained, indicating assigned personnel and their duties. The plan should ensure that at least one member who meets the training standards established by the Board of State and Community Corrections (BSCC) for general fire- and life-safety and is trained in fire- and life-safety procedures relating specifically to the facility is on-duty at all times (15 CCR 1028).

The staffing plan shall be available for biennial review by BSCC staff. The review and recommendations of the BSCC biennial review shall be forwarded to the City, as required by 15 CCR 1027.

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900.2.3 ENTRY RESTRICTIONS
Entry into any location where a person is held in custody should be restricted to:

(a) Authorized members entering for official business purposes.

(b) Emergency medical personnel when necessary.

(c) Any other person authorized by the Watch Commander.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

## 900.3 INITIATING TEMPORARY CUSTODY

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease, or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate the individual for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication, or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, the individual shall be transported to the City jail or the appropriate mental health facility.

The officer should promptly notify the Watch Commander of any conditions that may warrant immediate medical attention or other appropriate action. The Watch Commander shall determine whether the individual will be placed in a cell, immediately released, or transported to jail or other facility.

900.3.1 SCREENING AND PLACEMENT
The officer responsible for an individual in custody shall (15 CCR 1050):

(a) Advise the Watch Commander of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).

(b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:

1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141), or whether the person is facing any other identified risk.

2. Provide any individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):

(a) Continuous, direct sight and sound supervision.

(b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.

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3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
4. Ensure males and females are separated by sight and sound when in cells.
5. Ensure restrained individuals are not placed in cells with unrestrained individuals.

(c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.

(d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

### 900.3.2 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Field Services Division Captain will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to [department/office] members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

[Department/Office] members assigned to process a foreign national shall:

(a) Inform the individual, without delay, that the individual may have the individual's consular officers notified of the arrest or detention and may communicate with them.
    1. This notification should be documented.

(b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
    1. If the country is on the mandatory notification list, then:
        (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
        (b) Tell the individual that this notification has been made and inform the individual without delay that the individual may communicate with consular officers.
        (c) Forward any communication from the individual to the individual's consular officers without delay.
        (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
    2. If the country is not on the mandatory notification list and the individual requests that the individual's consular officers be notified, then:
        (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.

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(b) Forward any communication from the individual to the individual's consular officers without delay.

900.3.3 TEMPORARY HOLDING FACILITY SEARCHES

Immediately upon securing weapons, officers bringing prisoners into the Temporary Holding Facility shall thoroughly search their prisoners. All arrestees brought into the Temporary Holding Facility must be searched by an officer or other authorized employee of the same gender whenever possible before the officer relinquishes control. When a prisoner has been handcuffed, the prisoner should remain handcuffed until the search is substantially completed.

In the case of female prisoners, all searches will be conducted by a female officer or designated female employee whenever possible, and male employees shall remain outside the closed door, but available to assist immediately if needed. Should a female prisoner become combative, an officer may be assigned to restrain her until the appropriate search is completed.

Arrestee search procedures and policies are found in Policy Manual § 902.

## 900.4 SAFETY, HEALTH AND OTHER PROVISIONS

900.4.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Palo Alto Police Department, the custody shall be promptly and properly documented in a custody log, including:

(a) Identifying information about the individual, including the individual's name.

(b) Date and time of arrival at the [Department/Office].

(c) Any charges for which the individual is in temporary custody and any case number.

(d) Time of all safety checks (15 CCR 1027; 15 CCR 1027.5).

(e) Any medical and other screening requested and completed.

(f) Any emergency situations or unusual incidents.

(g) Any other information that may be required by other authorities, such as compliance inspectors.

(h) Date and time of release from the Palo Alto Police Department.

The Watch Commander should initial the log to approve the temporary custody and should also initial the log when the individual is released from custody or transferred to another facility.

The Watch Commander should make periodic checks to ensure all log entries and safety and security checks are made on time.

900.4.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

(a) Safety checks and significant incidents/activities are noted on the log.

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(b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.

1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
2. This does not apply to surreptitious and legally obtained recorded interrogations.

(c) There is reasonable access to toilets and wash basins.

(d) There is reasonable access to a drinking fountain or water.

(e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.

(f) There is privacy during attorney visits.

(g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.

(h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.

1. The supervisor should ensure that there is an adequate supply of clean blankets.

(i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.

(j) Adequate furnishings are available, including suitable chairs or benches.

### 900.4.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to [department/office] members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, the person will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the Palo Alto Police Department. They should be released or transferred to another facility as appropriate.

### 900.4.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to the individual's health or safety.

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Whenever a prosthetic or orthopedic appliance is removed, the Watch Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

### 900.4.5 TELEPHONE CALLS

Immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an individual in custody has the right to make at least three completed calls to an attorney, bail bondsman, and a relative or other person (Penal Code § 851.5). Additional calls may be made as reasonable and necessary (15 CCR 1067). In providing further access to a telephone beyond that required by Penal Code § 851.5, legitimate law enforcement interests such as officer safety, effect on ongoing criminal investigations, and logistics should be balanced against the individual's desire for further telephone access.

(a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at the individual's own expense.

    1. The [Department/Office] should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).

    2. The provisions of Penal Code § 851.5 concerning this issue shall be posted in bold, block type in a conspicuous place within the facility.

(b) The individual should be given sufficient time to contact whomever the individual desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.

    1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use the member's judgment in determining the duration of the calls.

    2. Within three hours of the arrest, the member supervising the individual should inquire whether the individual is a custodial parent with responsibility for a minor child, and notify the individual that the individual may make two additional telephone calls to a relative or other person for the purpose of arranging for the care of minor children (Penal Code § 851.5).

(c) Calls between an individual in temporary custody and the individual's attorney shall be deemed confidential and shall not be monitored, eavesdropped upon, or recorded (Penal Code § 851.5(b)(1); 15 CCR 1068).

(d) Individuals who are known to have, or are perceived by others as having, hearing or speech impairments shall be provided access to a telecommunication device which will facilitate communication (15 CCR 1067).

### 900.4.6 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated (15 CCR 1072). Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety.

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The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

### 900.4.7 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

### 900.4.8 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM

In addition to a custody log entry, any incident that results in physical harm or serious threat of physical harm to a member, person in custody, or any other person shall be documented as stated in the Use of Force or Occupational Disease and Work-Related Injury Reporting policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. The Watch Commander will retain a record of these reports for inspection purposes (15 CCR 1044).

### 900.4.9 ATTORNEYS AND BAIL BONDSMEN

(a) An attorney may visit at the request of the individual in custody or a relative (Penal Code § 825).

(b) Attorneys and bail bondsmen who need to interview an individual in custody should do so inside a secure interview room.

(c) The individual in custody as well as the attorney or bail bondsman should be searched for weapons prior to being admitted to the interview room and at the conclusion of the interview.

(d) Attorneys must produce a current California Bar card as well as other matching appropriate identification.

(e) Interviews between attorneys and their clients shall not be monitored or recorded (15 CCR 1068).

### 900.4.10 DISCIPLINE

Discipline will not be administered to any individual in custody at this facility. Any individual in custody who repeatedly fails to follow directions or facility rules should be transported to the

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appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR 1081).

## 900.5 USE OF RESTRAINT DEVICES

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Palo Alto Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

### 900.5.1 PREGNANT ADULTS

Adults who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

## 900.6 PERSONAL PROPERTY

The personal property of an individual in temporary custody should be removed, inventoried, and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody, the individual's items of personal property shall be compared with the inventory, and the individual shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person's signature as notice of receipt. The [Department/Office] shall maintain a copy of the property receipt.

The Watch Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding the individual's property. The Watch Commander shall attempt to prove or disprove the claim.

## 900.7 HOLDING CELLS

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when the individual is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

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(a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces, and jackets, shall be removed.

(b) The individual shall constantly be monitored by an audio/video system during the entire custody.

(c) The individual shall have constant auditory access to [department/office] members.

(d) The individual's initial placement into and removal from a locked enclosure shall be logged.

(e) Safety checks by [department/office] members shall occur no less than every 15 minutes (15 CCR 1027.5).

1. Safety checks should be at varying times.
2. All safety checks shall be logged.
3. The safety check should involve questioning the individual as to the individual's well-being.
4. Individuals who are sleeping or apparently sleeping should be awakened.
5. Requests or concerns of the individual should be logged.

900.7.1 USE OF SOBERING CELL

Individuals who are to be held in the temporary holding facility and who present a threat to their own safety or the safety of others due to their state of intoxication should be placed in a sobering cell until their condition allows for continued processing.

The following guidelines apply when placing any individual in a sobering cell (15 CCR 1056):

(a) Placement of an individual into the cell requires approval of the Watch Commander.

(b) A cell log shall be initiated every time an individual is placed in the cell. The log shall be maintained for the entire time the individual is housed in the cell.

(c) A safety check consisting of direct visual observation sufficient to assess the individual's well-being and behavior shall occur at least once every 30 minutes with no more than a 15-minute lapse between safety checks. Each safety check shall be documented in the cell log. Supervisors shall check the logs for completeness every two hours and document this action on the cell log.

(d) Under no circumstances shall an individual be held in a sobering cell for more than six hours without being evaluated by qualified medical personnel to ensure that the individual does not have an urgent medical issue.

(e) Individuals will be removed from the cell when they no longer pose a threat to their own safety and the safety of others, and are able to continue processing.

## 900.8 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY

The Field Services Division Captain will ensure procedures are in place to address any suicide attempt, death, or serious injury of any individual in temporary custody at the Palo Alto Police Department. The procedures should include the following:

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(a) Immediate request for emergency medical assistance if appropriate

(b) Immediate notification of the Watch Commander, Chief of Police, and Investigative Services Division Captain

(c) Notification of the spouse, next of kin, or other appropriate person

(d) Notification of the appropriate prosecutor

(e) Notification of the City Attorney

(f) Notification of the [Medical Examiner/JOP]

(g) Evidence preservation

(h) In-custody death review reports in compliance with 15 CCR 1046

1. A copy of the initial review report of an in-custody death shall be provided to the BSCC within 60 days of the death.

(i) Preparation of a written report to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)

1. A copy of the report submitted to the Attorney General shall also be submitted to the BSCC within 10 days of the death (15 CCR 1046).

2. Any change or new information that becomes available after the initial reporting to the Attorney General shall be updated in the report and provided to the Attorney General within 10 days of the date of the change or the date the new information becomes available.

#### 900.8.1 IN-CUSTODY DEATH PUBLICATION

The Chief of Police or the authorized designee should ensure that all specified information relating to an in-custody death is posted on the [department/office] website as prescribed and within the time frames provided in Penal Code § 10008.

## 900.9 RELEASE AND/OR TRANSFER

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

(a) All proper reports, forms, and logs have been completed prior to release.

(b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.

(c) It has been confirmed that the correct individual is being released or transported.

(d) All property, except evidence, contraband, or dangerous weapons, has been returned to, or sent with, the individual.

(e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of the individual's property, warrant copies).

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(f) The individual is not permitted in any nonpublic areas of the Palo Alto Police Department unless escorted by a member of the [Department/Office].

(g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if the individual is being sent to another facility.

(h) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with the person's personal needs as reasonable.

900.9.1 FORM REQUEST FOR PETITION TO SEAL RECORDS

Upon request, a detained arrestee released from custody shall be provided with the appropriate Judicial Council forms to petition the court to have the arrest and related records sealed (Penal Code § 851.91).

The [Department/Office] shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

## 900.10 POLICY UPDATES

Updated 6-15-23

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# Custodial Searches

## 902.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants, or weapons into the Palo Alto Police Department facility. Such items can pose a serious risk to the safety and security of [department/office] members, individuals in custody, contractors, and the public.

Guidance for custody searches when transporting a person in custody may be found in the Transporting Persons in Custody Policy.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody search** - An in-custody search of an individual and of the individual's property, shoes, and clothing, including pockets, cuffs, and folds on the clothing, to remove all weapons, dangerous items, and contraband.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach, rectal cavity, or vagina of an individual.

**Strip search** - A search that requires an individual to remove or rearrange some or all of the individual's clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus, or outer genitalia. This includes monitoring an individual who is changing clothes, where the individual's underclothing, buttocks, genitalia, or female breasts are visible.

## 902.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

## 902.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Palo Alto Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

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902.4.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this [department/office], such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another [department/office] member. The inventory should include the case number, date, time, member's Palo Alto Police Department identification number and information regarding how and when the property may be released.

902.4.2 VERIFICATION OF MONEY

Whenever feasible, all money shall be counted in front of the individual from whom it was received, witnessed by another department employee. Money of all types submitted to the evidence room shall be packaged in heat sealed plastic bags and stored in the safe inside the property room. The money shall be counted by two police department employees prior to booking and a barcode label shall be placed on the heat sealed bag. Both employees should initial the heat seal. The property sheet should indicate the numbered denominations of each type of bill booked and the names of the two persons who counted the money. Negotiable checks and foreign currency should also be placed in a heat sealed plastic bag and totaled separately. Should any money be withdrawn or added prior to booking into the evidence room, the transaction should be witnessed by another department employee, the bag should be resealed and initialed by both parties as described above, and the property sheet should be amended as needed within the evidence management system.

## 902.5 STRIP SEARCHES

No individual in temporary custody at any Palo Alto Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

(a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.

    1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

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(c) Custody history (e.g., past possession of contraband while in custody, assaults on [department/office] members, escape attempts).

(d) The individual's actions or demeanor.

(e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

### 902.5.1 STRIP SEARCH PROCEDURES

Strip searches at Palo Alto Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

(a) Written authorization from the Watch Commander shall be obtained prior to the strip search.

(b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.

(c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.

(d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.

(e) Members conducting a strip search shall not touch the breasts, buttocks, or genitalia of the individual being searched.

(f) The primary member conducting the search shall prepare a written report to include:

1. The facts that led to the decision to perform a strip search.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The written authorization for the search, obtained from the Watch Commander.
4. The name of the individual who was searched.
5. The name and sex of the members who conducted the search.
6. The name, sex, and role of any person present during the search.
7. The time and date of the search.
8. The place at which the search was conducted.
9. A list of the items, if any, that were recovered.
10. The facts upon which the member based the member's belief that the individual was concealing a weapon or contraband.

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(g) No member should view an individual's private underclothing, buttocks, genitalia, or breasts while that individual is showering, performing bodily functions, or changing clothes, unless the individual would otherwise qualify for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect the individual's privacy and dignity.

(h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Watch Commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

(i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name, and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

902.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

(a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.

(b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

## 902.6 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

(a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

(b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.

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(c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary [department/office] members needed to maintain the safety and security of the medical personnel shall be present.

(d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.

(e) All such searches shall be documented, including:

1. The facts that led to the decision to perform a physical body cavity search of the individual.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The Watch Commander's approval.
4. A copy of the search warrant.
5. The time, date and location of the search.
6. The medical personnel present.
7. The names, sex and roles of any [department/office] members present.
8. Any contraband or weapons discovered by the search.

(f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

## 902.7 TRAINING

The Personnel and Training Lieutenant shall ensure members have training that includes (28 CFR 115.115):

(a) Conducting searches of cross-gender individuals.

(b) Conducting searches of transgender and intersex individuals.

(c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

## 902.8 BODY SCANNER SEARCH

If a body scanner is available, a body scan search should be performed on all persons in custody upon entering the secure booking area of the facility. Members (Penal Code § 4030):

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(a) Within sight of the visual display of a body scanner that is depicting the body during a scan shall be of the same sex as the person being scanned, except for physicians or licensed medical personnel.

(b) Should ask persons in custody if they are pregnant prior to a body scan and should not knowingly use a body scanner on a pregnant person.

## 902.9 GENDER IDENTITY OR EXPRESSION CONSIDERATIONS

If an individual who is subject to a strip search or physical body cavity search has a gender identity or expression that differs from their sex assigned at birth, the search should be conducted by members of the same gender identity or expression as the individual, unless the individual requests otherwise.

## 902.10 JUVENILES

No juvenile should be subjected to a strip search or a physical body cavity search at the [Department/Office].

The Chief of Police or the authorized designee should establish procedures for the following:

(a) Safely transporting a juvenile who is suspected of concealing a weapon or contraband, or who may be experiencing a medical issue related to such concealment, to a medical facility or juvenile detention facility as appropriate in the given circumstances.

1. Procedures should include keeping a juvenile suspected of concealing a weapon under constant and direct supervision until custody is transferred to the receiving facility.

(b) Providing officers with information identifying appropriate medical and juvenile detention facilities to which a juvenile should be transported for a strip or body cavity search.

Nothing in this section is intended to prevent an officer from rendering medical aid to a juvenile in emergency circumstances (see the Medical Aid and Response Policy for additional guidance).

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# Prison Rape Elimination

## 904.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect, and respond to sexual abuse, harassment, and retaliation against individuals in custody in the Palo Alto Police Department Temporary Holding Facilities (28 CFR 115.111; 15 CCR 1029).

### 904.1.1 DEFINITIONS

Definitions related to this policy include:

**Intersex** - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

**Sexual abuse** - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse (28 CFR 115.6; 15 CCR 1006):

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation

Sexual abuse also includes abuse by a staff member, contractor, or volunteer as follows, with or without consent of the individual in custody:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire

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- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above
- Any display by a staff member, contractor, or volunteer of the staff member's uncovered genitalia, buttocks, or breast in the presence of an individual in custody
- Voyeurism by a staff member, contractor, or volunteer

**Sexual harassment** - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an individual in custody that are directed toward another; repeated verbal comments or gestures of a sexual nature to an individual in custody by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6; 15 CCR 1006).

**Transgender** - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

## 904.2 POLICY

The Palo Alto Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The [Department/Office] will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Palo Alto Police Department will take immediate action to protect those in its custody who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162; 15 CCR 1029).

## 904.3 PREA COORDINATOR

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement, and oversee [department/office] efforts to comply with PREA standards in the Palo Alto Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

(a) Developing and maintaining procedures to comply with the PREA Rule.

(b) Ensuring that any contract for the confinement of individuals in custody includes the requirement to adopt and comply with applicable PREA standards and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).

(c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect those in custody from sexual abuse (28 CFR 115.113; 15 CCR 1029). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.

(d) Developing methods for staff to privately report sexual abuse and sexual harassment of individuals in custody (28 CFR 115.151).

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(e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators, and [department/office] leadership to an incident of sexual abuse (28 CFR 115.165).

(f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):

1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/ Adolescents" or a similarly comprehensive and authoritative protocol.
2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
3. A process to document all referrals to other law enforcement agencies.
4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
5. In accordance with security needs, provisions to give, to the extent available, individuals in custody access to victim advocacy services if the individual is transported for a forensic examination to an outside hospital that offers such services.

(g) Ensuring that individuals with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing, or vision disabilities) (28 CFR 115.116).

1. The agency shall not rely on other individuals in custody for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the individual's safety, the performance of first-response duties under this policy, or the investigation of an individual's allegations of sexual abuse, harassment, or retaliation.

(h) Publishing on the [department/office]'s website:

1. Information on how to report sexual abuse and sexual harassment on behalf of an individual in custody (28 CFR 115.154).
2. A protocol describing the responsibilities of the [Department/Office] and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).

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(i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187; 34 USC § 30303; 15 CCR 1041).

1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.

2. The data shall be aggregated at least annually.

(j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house individuals in custody overnight (28 CFR 115.193).

(k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

(l) Ensuring that information for uninvolved incarcerated persons, family, community members, and other interested third parties to report sexual abuse or sexual harassment is publicly posted at the facility (15 CCR 1029).

## 904.4 REPORTING SEXUAL ABUSE, HARASSMENT, AND RETALIATION

Individuals in custody may make reports to any staff member verbally, in writing, privately, or anonymously of any of the following (28 CFR 115.151; 15 CCR 1029):

- Sexual abuse
- Sexual harassment
- Retaliation by other individuals in custody or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

Individuals in custody shall be notified of the [department/office] zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the [Department/Office] and that is able to receive and immediately forward a report of sexual abuse and sexual harassment to agency officials. This allows the individual to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

### 904.4.1 MEMBER RESPONSIBILITIES

[Department/Office] members shall accept reports from individuals in custody and third parties and shall promptly document all reports (28 CFR 115.151; 15 CCR 1029).

All members shall report immediately to the Watch Commander any knowledge, suspicion, or information regarding:

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(a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.

(b) Retaliation against individuals in custody or the member who reports any such incident.

(c) Any neglect or violation of responsibilities on the part of any [department/office] member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

### 904.4.2 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander shall report to the [department/office]'s designated investigators all allegations of sexual abuse, harassment, retaliation, neglect, or violations leading to sexual abuse, harassment, or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Watch Commander shall also report the allegation as required under mandatory reporting laws and [department/office] policy.

Upon receiving an allegation that an individual in custody was sexually abused while confined at another facility, the Watch Commander shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Watch Commander shall document such notification (28 CFR 115.163).

If an alleged victim is transferred from the Temporary Holding Facility to a jail, prison, or medical facility, the [Department/Office] shall, as permitted by law, inform the receiving facility of the incident and the individual's potential need for medical or social services, unless the individual requests otherwise (28 CFR 115.165).

## 904.5 INVESTIGATIONS

The [Department/Office] shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received [department/office]-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

### 904.5.1 FIRST RESPONDERS

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

(a) Separate the parties.

(b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.

(c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy

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physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

(d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

### 904.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

(a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.

(b) Interview alleged victims, suspects, and witnesses.

(c) Review any prior complaints and reports of sexual abuse involving the suspect.

(d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

(e) Assess the credibility of the alleged victim, suspect, or witness on an individual basis and not by the person's status as a detainee or a member of the Palo Alto Police Department.

(f) Document in written reports a description of physical, testimonial, documentary, and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.

(g) Refer allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe an individual in custody sexually abused another individual in custody in the Temporary Holding Facility (28 CFR 115.178).

(h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

### 904.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this [department/office] shall not be used as a basis for terminating an investigation (28 CFR 115.171).

### 904.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No individual in custody who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

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Victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

904.5.5 CONCLUSIONS AND FINDINGS

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Manager. The Chief of Police or the City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for [department/office] members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history, and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with individuals in custody and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with individuals in custody by a contractor or volunteer.

## 904.6 RETALIATION PROHIBITED

All individuals in custody and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Watch Commander or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for individuals in custody or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Watch Commander or the authorized designee shall identify a staff member to monitor the conduct and treatment of individuals in custody or members who have reported sexual abuse and of those who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of individuals in custody, such monitoring shall also include periodic status checks.

## 904.7 REVIEWS AND AUDITS

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### 904.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

(a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.

(b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.

(c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.

(d) Assess the adequacy of staffing levels in that area during different shifts.

(e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

### 904.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

(a) Identification of any potential problem areas.

(b) Identification of any corrective actions taken.

(c) Recommendations for any additional corrective actions.

(d) A comparison of the current year’s data and corrective actions with those from prior years.

(e) An assessment of the [Department/Office]’s progress in addressing sexual abuse.

The report shall be approved by the Chief of Police and made readily available to the public through the [department/office] website or, if it does not have one, through other means. Material

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may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Palo Alto Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the [department/office] website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

### 904.8 RECORDS

The [Department/Office] shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the [Department/Office], plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

### 904.9 TRAINING

All [department/office] members and contractors who may have contact with individuals in custody shall receive [department/office]-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Personnel and Training Lieutenant shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The [Department/Office]'s zero-tolerance policy and the right of individuals in custody to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which individuals in custody are most vulnerable.
- The right of individuals in custody and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all individuals in custody.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.
- Sexual abuse evidence collection in confinement settings.

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- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Personnel and Training Lieutenant shall maintain documentation that employees, volunteers, contractors, and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current [department/office] members who may have contact with individuals in custody shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such members to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

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# Transporting Persons in Custody

## 905.1 PURPOSE AND SCOPE

This policy provides guidelines for transporting persons who are in the custody of the Palo Alto Police Department.

See the Handcuffing and Restraints Policy for additional guidance.

## 905.2 POLICY

It is the policy of the Palo Alto Police Department to provide safe, secure, and humane transportation for all persons in custody.

## 905.3 FIELD SERVICES DIVISION CAPTAIN RESPONSIBILITIES

The Field Services Division Captain should establish related procedures for:

- Safely transporting persons who have their legs restrained.
- Seating placement of persons being transported in vehicles with and without safety barriers.

## 905.4 OFFICER RESPONSIBILITIES

Officers shall seat belt all prisoners prior to transporting them in a Department vehicle. Prisoners in custody must be seated and secured in the rear of any Department vehicle using either the vehicle's seatbelts or the installed restraint system. The restraint system is in addition to, and not a replacement for, handcuffs or other appendage restraints.

Officers transporting a person in custody should:

(a) Search all areas of the vehicle accessible to a person in custody before and after each transport.

(b) Immediately search persons in custody after arrest, when receiving the person from the custody of another officer, and before relocating the person. Refer to the Custodial Searches Policy before conducting any search other than a field search.

1. Whenever practicable, a search should be conducted by an officer of the same gender as the person being searched. If an officer of the same gender is not reasonably available, a witnessing officer should be present during the search.

(c) Provide Dispatch with any required notifications (e.g., start time, mileage, end time).

(d) Properly secure all property.

(e) Use audio/video equipment (when properly equipped) to observe and record any person in custody during transport (see the Field Based Video Policyor additional guidance).

(f) Plan travel times and routes to avoid situations that might impede transportation (e.g., heavy traffic, unfavorable road conditions, extreme weather) when reasonably practicable.

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(g) Make a verbal welfare check with a person in custody at least every 10 minutes. Provide sufficient visual observation and audio communication during the transport of:

1. Individuals in auxiliary restraints.
2. Individuals in leg restraints.
3. Individuals wearing a spit hood.
4. Individuals who are a suspected suicide risk.

(h) Verify that the vehicle's security devices (e.g., window and rear-door child-safety locks) are activated.

(i) Assess uncooperative persons who cannot or will not sit upright for a medical condition (see the Medical Aid and Response Policy for additional guidance):

1. If no medical condition exists, alternative transportation should be arranged (e.g., a special transport van).

## 905.5 TRANSPORT RESTRICTIONS

When transporting multiple persons, officers:

(a) Should not transport persons in custody together. Persons in custody should be transported individually when practicable, or within their own compartment of a multiple-compartment vehicle, unless supervisor approval is obtained based on unusual circumstances.

1. Juveniles and adults shall not be transported together.
2. Persons with known hostilities toward each other, such as mutual combatants or rival gang members, shall not be transported together.
3. Persons of different genders shall not be transported together unless they are in a multi-compartment vehicle and a supervisor gives prior approval

(b) If segregating individuals is not possible, transporting [officers_deputies] should be alert to inappropriate physical or verbal contact and take appropriate action.

## 905.6 TRANSPORT VANS

An officer trained on the safety and restraint systems of a transport van should be present during the transport van's use for transporting a person in custody.

An officer should assist persons getting into and out of the transport van to avoid falls.

## 905.7 TRANSPORTING PERSONS IN CUSTODY WHO HAVE A DISABILITY

When transporting a person in custody who has a disability, a transporting officer should request assistance as necessary to transport the person in a reasonable and safe manner. The transporting officer should ensure that any special equipment (e.g., canes, wheelchairs, prosthetics) is transported to the person's destination in a way that does not threaten the safety or security of the person in custody or the officer.

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Officers transporting a person who has a disability should consult with the person in custody and use good judgment in determining what, if any, restraining devices may be appropriate based on the person's disability to ensure the security, safety, and dignity of all persons.

### 905.8 TRANSPORTING ILL OR INJURED PERSONS IN CUSTODY

Except in exceptional cases where alternatives are not reasonably available, officers should not transport persons in custody who are unconscious, have serious injuries, or who may be seriously ill. EMS personnel should be called to handle such transportation.

Officers shall notify a supervisor as soon as practicable when transporting a person in custody to a hospital.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes, or when so directed by a supervisor.

Any person in custody suspected of having a communicable disease should be transported in compliance with the exposure control plan in the Communicable Diseases Policy.

See the Medical Aid and Response Policy for additional guidance on ill or injured persons in custody.

### 905.9 TRANSPORTING PREGNANT PERSONS IN CUSTODY

Persons in custody who are known to be pregnant should be restrained during transport in the least restrictive manner that is effective for officer safety. Leg restraints, waist chains, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure themself or others, or damage property.

Absent exceptional circumstances, persons in labor or delivery should not be transported by officers. EMS personnel should be called to handle transportation.

### 905.10 MENTAL ILLNESS COMMITMENT TRANSPORTS

When transporting any individual for a mental illness commitment, the transporting officer should request that the Communications Center notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual, and whether any special medical care is needed.

Should the person require transport in a medical transport vehicle, and the safety of any person, including the person in custody, requires the presence of an officer during the transport, supervisor approval is required before transport commences.

See the Mental Illness Commitments Policy for additional guidance.

### 905.11 INTERRUPTION OF TRANSPORT

Absent extraordinary circumstances, officers should not interrupt a transport to provide emergency assistance on another call for service or an on-view emergency situation without prior supervisory approval. Instead, they should notify Communications and request an appropriate response by other personnel.

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### 905.12 EXTENDED TRANSPORTS

During transports for extended durations, transporting officers may be required to make necessary stops. With supervisory approval and due consideration for security risks and the in-custody person's health and well-being, these stops should be limited to fuel, meals, bathroom breaks, and other purposes reasonably necessary for the continuation of the transport.

### 905.13 PROHIBITIONS

When transporting a person in custody, officers should not:

(a) Use transport as a form of punishment or retaliation (e.g., intentionally rough rides, excessive heat or cold, obnoxiously loud music).

(b) Handcuff a person to any part of a vehicle.

(c) Leave the vehicle unattended with the person in custody in the vehicle.

(d) Allow any person who is not in custody (e.g., friend, family member) to have contact with or be in close proximity to the person in custody.

(e) Allow any food, drink, or other consumables to be given to the person in custody by anyone other than [department/office] personnel or receiving agency personnel.

(f) Stop to conduct any personal activities.

(g) Engage in a pursuit.

### 905.14 ESCAPES

In the event that a person in custody escapes while being transported, the transporting officer shall immediately notify Communications and other units of the escape and provide a description of the escapee. A supervisor shall coordinate an immediate search to apprehend the escapee. The transporting officer shall submit a written report as soon as practicable describing the circumstances of the escape and any recapture.

(a) The Watch Commanderwill make staff notifications upon learning of the escape, in accordance with the Major Incident Notification policy.

(b) Transporting officer shall request that Communications notify the appropriate agency or agencies within the jurisdiction where the escape occurred.

### 905.15 DOCUMENTATION

If a person is injured during transportation, officers should document the injury in the appropriate report. Documentation should include the condition of the person prior to transportation and the known or suspected causes of the injury during transportation (e.g., hitting head, struggling with restraints, fighting with other persons in custody). Any visible or reported injuries should be photographed and included with the report.

### 905.16 NOTIFICATIONS

Officers should notify a supervisor and any receiving facility of information regarding any circumstances the officer reasonably believes would be potential safety concerns or medical

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risks to the person (e.g., uncooperative or violent, prolonged struggle, extreme agitation, medical conditions) that may have occurred prior to, or during, transportation.

## 905.17 TRAINING

The Personnel and Training Lieutenant should provide periodic training on this policy and procedures related to transporting persons in custody, restraint systems, and restraint devices.

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# Chapter 10 - Personnel

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# Recruitment and Selection

## 1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Palo Alto Police Department and that are promulgated and maintained by the Personnel and Training.

## 1000.2 RECRUITMENT

The Administrative Services Division Captain shall employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy shall include:

(a) Establishment of a written recruitment plan.

1. The plan shall include an outline of steps for recruiting candidates who are representative of the community. This should include candidates who live in or are from the community, if appropriate and consistent with applicable laws and memorandums of understanding or collective bargaining agreements.

(b) Identification of racially and culturally diverse target markets.

(c) Use of marketing strategies to target diverse applicant pools.

(d) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive [department/office] website and the use of [department/office]-managed social networking sites, if resources permit.

(e) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.

(f) Employee referral and recruitment incentive programs.

(g) Consideration of shared or collaborative regional testing processes.

The Administrative Services Division Captain shall avoid advertising, recruiting, and screening practices that tend to stereotype, focus on homogeneous applicant pools, or screen applicants in a discriminatory manner.

The [Department/Office] should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of their status in the recruiting process.

## 1000.3 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; Penal Code § 13510.1; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the [Department/Office] and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

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Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Personnel and Training should maintain validated standards for all positions.

### 1000.3.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by POST or required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

(a) Free of any felony convictions

(b) Be legally authorized to work in the United States under federal law

(c) At least 21 years of age except as provided by Government Code § 1031.4

(d) Fingerprinted for local, state, and national fingerprint check

(e) Good moral character as determined by a thorough background investigation (11 CCR 1953)

(f) High school graduate, passed the GED or other high school equivalency test, or obtained a two-year, four-year, or advanced degree from an accredited or approved institution

(g) Free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)

(h) Free of hate group memberships, participation in hate group activities, or advocacy of public expressions of hate within the previous seven years, and since 18 years of age, as determined by a background investigation (Penal Code § 13681)

(i) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):

    1. Reading and writing ability assessment (11 CCR 1951)

    2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

(j) POST certification that has not been revoked, denied, or voluntarily surrendered pursuant to Penal Code § 13510.8(f)

(k) Not identified in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or similar federal government database that reflects revoked certification for misconduct or reflects misconduct that would result in a revoked certification in California.

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the [Department/Office] (Penal Code § 13510(d)).

### 1000.3.2 STANDARDS FOR [DISPATCHER

Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):

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(a) A verbal, reasoning, memory, and perceptual abilities assessment (11 CCR 1957)

(b) An oral communication assessment (11 CCR 1958)

(c) A medical evaluation (11 CCR 1960)

### 1000.4 SELECTION PROCESS

The [Department/Office] shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the [Department/Office] shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

(a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)

1. The personnel records of any applicant with prior peace officer experience in this state shall be requested from the appropriate law enforcement agency and reviewed prior to extending an offer of employment (Penal Code § 832.12).

2. This includes review of prior law enforcement employment information maintained by POST (Penal Code § 13510.9).

(b) Driving record

(c) Personal and professional reference checks

(d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.

(e) Information obtained from public internet sites

1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).

(f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)

(g) Local, state, and federal criminal history record checks

(h) Lie detector test (when legally permissible) (Labor Code § 432.2)

(i) Medical and psychological examination (may only be given after a conditional offer of employment)

1. The Medical Suitability Declaration (POST form 2-363) provided by the evaluating physician shall be maintained in the candidate's background investigation file (11 CCR 1954).

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2. The Psychological Suitability Declaration (POST form 2-364) provided by the evaluator shall be maintained in the candidate's background investigation file (11 CCR 1955).

(j) Review board or selection committee assessment

(k) Relevant national and state decertification records, if available, including the National Decertification Index

### 1000.4.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

## 1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Palo Alto Police Department (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

### 1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

### 1000.5.2 REVIEW OF SOCIAL MEDIA SITES

All peace officer candidates shall be subject to a social media search for statements, postings, and/or endorsements made by the candidate that are relevant to suitability for peace officer employment, including bias-relevant information consistent with the requirements of 11 CCR 1955(d)(3) and any public expression of hate made in an online forum, as defined in Penal Code § 13680(g) (11 CCR 1953(e)(12)).

Due to the potential for accessing unsubstantiated, private, or protected information, the Personnel and Training Division shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

The Personnel and Training Divisionshould consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches, and/or review information from social media sites to ensure that:

(a) The legal rights of candidates are protected.

(b) Material and information to be considered are verified, accurate, and validated.

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(c) The [Department/Office] fully complies with applicable privacy protections and local, state, and federal law.

Regardless of whether a third party is used, the Personnel and Training Divisionshould ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

### 1000.5.3 RECORDS RETENTION

The background report and all supporting documentation shall be maintained according to the established records retention schedule and at a minimum as follows (Government Code § 12946; 11 CCR 1953):

(a) Reports and documentation for candidates hired by the [Department/Office] shall be retained for the entire term of employment and a for a minimum of four years after separation from the [Department/Office].

(b) Reports and documentation for candidates not hired by the [Department/Office] for a minimum of four years.

### 1000.5.4 STATE NOTICES

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

### 1000.5.5 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall include sections that summarize relevant Background Investigation Dimensions and include any findings of behaviors, traits, and/or attributes relevant to bias per the Bias Assessment Framework as described in the POST Background Investigation Manual. The report shall identify the data sources reviewed for the findings, regardless of weight given. The report shall include narrative information in the format described in 11 CCR 1953(g)(1). The report shall also include whether the candidate has engaged or is engaging in membership in a hate group, participation in hate group activity, or advocacy or public expressions of hate, pursuant to Penal Code § 13680 et seq. (11 CCR 1953).

The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation including relevant documentation of bias-related findings and documentation obtained through the social media search shall be included in the candidate's background investigation file (11 CCR 1953).

The background investigator shall document proof of verification of qualification for peace officer appointment on the Verification of Qualification for Peace Officer Appointment form and forward to the Administrative Services Division Captain for final review and submission to POST (11 CCR 1953).

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The background investigation file shall be made available during POST compliance inspections (11 CCR 1953).

1000.5.6 BACKGROUND INVESTIGATION UPDATE
A background investigation update may, at the discretion of the Chief of Police, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Palo Alto Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

1000.5.7 INVESTIGATOR TRAINING
Background investigators shall complete POST-certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

1000.5.8 CONFIDENTIAL POST RECORDS
Records released to the [Department/Office] from POST that were previously withheld from the candidate by POST shall be kept confidential as provided in Penal Code § 13510.9.

## 1000.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate’s qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

## 1000.7 POLICY

In accordance with applicable federal, state, and local law, the Palo Alto Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The [Department/Office] does not show partiality or grant

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any special status to any applicant, employee, or group of employees unless otherwise required by law.

The [Department/Office] will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

### 1000.8 PROBATIONARY PERIODS

The Administrative Services Division Captain should coordinate with the Palo Alto Personnel and Training to identify positions subject to probationary periods and procedures for:

(a) Appraising performance during probation.

(b) Assessing the level of performance required to complete probation.

(c) Extending probation.

(d) Documenting successful or unsuccessful completion of probation.

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# Evaluation of Employees

## 1002.1 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

## 1002.2 POLICY

The Palo Alto Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to sex, race, color, national origin, religion, age, disability or other protected classes.

## 1002.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and civilian supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

### 1002.3.1 RESERVE OFFICER EVALUATIONS

Reserve officer evaluations are covered under the Reserve Officers Policy.

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### 1002.4 FULL TIME PROBATIONARY PERSONNEL

Civilian personnel are on probation for 12 months before being eligible for certification as permanent employees. An evaluation is completed monthly for all full-time civilian personnel during the probationary period.

Sworn personnel are on probation for 12 months before being eligible for certification as permanent employees. Probationary officers are evaluated daily, weekly and monthly during the probationary period.

### 1002.5 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to three types of performance evaluations:

**Regular** - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor on the anniversary of the employee's date of hire except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee's date of last promotion.

**Transfer** - If an employee is transferred from one assignment to another in the middle of an evaluation period and less than six months have transpired since the transfer, then an evaluation shall be completed by the current supervisor with input from the previous supervisor.

**Special** - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

#### 1002.5.1 RATINGS

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

**Exceeds Standards -** Represents performance that is better than expected of a fully competent employee. It is superior to what is expected and in some cases may be exceptional and outstanding performance.

**Meets Standards** - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

**Does Not Meet Standards** - Is a level of performance less than that expected of a fully competent employee and less than standards required of the position. A needs improvement rating must be thoroughly discussed with the employee. Inferior, inadequate, or undesirable performance that cannot be tolerated also falls into this performance rating category.

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions

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for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section with specific examples of documentation. .

## 1002.6 EVALUATION INTERVIEW

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. If the employee has valid and reasonable protests of any of the ratings, they should be changed accordingly.

The supervisor and employee will sign and date the evaluation. Employees may complete a written rebuttal to all or part of the Annual Performance Evaluation which will be filed with the Performance Evaluation submitted.

### 1002.6.1 DISCRIMINATORY HARASSMENT FORM

At the time of each employee's annual evaluation, the reviewing supervisor shall require the employee to read the City and Department harassment and discrimination policies. Following such policy review, the supervisor shall provide the employee a form to be completed and returned by the employee certifying the following:

(a) That the employee understands the harassment and discrimination policies.

(b) Whether any questions the employee has have been sufficiently addressed.

(c) That the employee knows how and where to report harassment policy violations.

(d) Whether the employee has been the subject of, or witness to, any conduct that violates the discrimination or harassment policy which has not been previously reported.

The completed form should be returned to the supervisor (or other authorized individual if the employee is uncomfortable returning the form to the presenting supervisor) within one week.

The employee's completed answers shall be attached to the evaluation. If the employee has expressed any questions or concerns, the receiving supervisor or other authorized individual shall insure that appropriate follow up action is taken.

## 1002.7 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the rater's supervisor (Division Captain/Coordinator). The Division Captain/ Coordinator shall review the evaluation for fairness, impartiality, uniformity, and consistency. The Division Captain/Coordinator shall evaluate the supervisor on the quality of ratings given.

## 1002.8 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief of Police for the tenure of the employee's employment. A copy will be given to the employee and a copy will be forwarded to City of Palo Alto Personnel and Training.

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# Promotional and Transfer Policy

## 1004.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. The regular and systematic rotation of police personnel through specialized assignments enhances the ability of the Department to accomplish its mission, and provides professional development for Department personnel. It shall therefore be the policy of the Department to encourage such rotation by establishing fair, uniform standards for the selection of personnel for specialized assignments and by establishing minimum and maximum limits for such assignments. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

Definition: Specialized Assignments are full-time assignments outside the basic patrol function; part-time (collateral duty) assignments that include tasks outside the basic patrol function, or temporary out of class assignments of more than sixty (60) days.

### 1004.1.1 GENERAL REQUIREMENTS

The following criteria will be used in evaluating candidates for promotion and transfer:

(a) Presents a professional, neat appearance.

(b) Maintains a physical condition that aids in their performance.

(c) Demonstrates the following traits:

1. Emotional stability and maturity
2. Stress tolerance
3. Sound judgment and decision-making
4. Personal integrity and ethical conduct
5. Leadership
6. Initiative
7. Adaptability and flexibility
8. Ability to conform to [department/office] goals and objectives in a positive manner

## 1004.2 SWORN AND NON-SWORN NON-SUPERVISORY SPECIALTY SELECTION PROCESS

The following positions are considered special assignments and not promotions:

(a) Special Enforcement Detail (SED)

(b) Detective

(c) Motorcycle officer

(d) Field Training Officer

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(e) Personnel and Training Supervisor
(f) Field Services Staff Assistant
(g) Special Weapons and Tactics
(h) Crisis Negotiation Team (CNT)
(i) Crime Scene Investigation (CSI) Officer
(j) K-9 Handler
(k) Communications Training Officer
(l) Tactical Dispatcher
(m) Defensive Tactics Instructor
(n) Range Master
(o) Emergency Medical / PPE Instructor
(p) Driving Instructor
(q) Bicycle Officer
(r) Recruiting Team Officer
(s) Public Information Officer
(t) Designated Rifle Officer
(u) STAR Team
(v) Critical Incident Stress Management Team
(w) Psychiatric Emergency Response Team (PERT) Officer

#### 1004.2.1 DESIRABLE QUALIFICATIONS

The following qualifications apply to consideration for transfer:

(a) Off probation
(b) Has shown an expressed interest in the position applied for
(c) Education, training and demonstrated abilities in related areas; such as, enforcement activities, investigative techniques, report writing, public relations, etc.
(d) Complete any training required by POST
(e) Meets the selection criteria as posted.

## 1004.3 VACANCIES

Rotation of personnel will normally occur at shift change in July. It shall be the duty of the responsible manager to notify the Field Services Division Captain or his/her designee of all anticipated vacancies on a timely basis. In order to ensure a well-coordinated shift change and allow all personnel to make timely choices regarding assignments, it shall be the duty of the Field Services Division Captain or his/her designee to post a schedule providing deadlines for

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notifications of intended transfers, job postings, application deadlines, testing processes, and FSD bidding processes. Such schedule shall be posted no later than January 1st of each year.

On occasion, vacancies may occur in Specialized Assignments outside the normal rotation at the July shift change. On such occasions, the responsible manager shall post notice of the anticipated vacancy as soon as practical after the vacancy is identified. Notices of anticipated vacancies in Specialized Assignments shall be posted a minimum of two weeks before the application deadline. No extensions of final filing dates for Specialized Assignments shall be granted unless no qualified applicants have applied by the originally posted deadline. Under exigent circumstances, when such posting would threaten the mission of the Department, the two week posting requirement may be waived upon approval of the Chief. In any case, when the posting requirement is waived, the Chief shall notify the President of the Palo Alto Peace Officers' Association (PAPOA) of the waiver and the reasons thereof within one working day.

## 1004.4 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

(a) Presents a professional, neat appearance

(b) The member maintains a physical condition, which aids in their performance

(c) Demonstrates:

1. Emotional stability and maturity
2. Sound judgment and decision making
3. Personal integrity
4. Honesty
5. Leadership
6. Initiative
7. Ability to confront and/or deal with issues both positive and/or negative
8. Ability to conform to organizational goals and objectives.

### 1004.4.1 POSTINGS

Postings for Specialized Assignments shall contain a job description for the assignment; eligibility criteria; performance standards; a description of the selection process; the name of the supervisor or manager responsible for the selection, and a due date for applications. Performance standards shall describe the minimum acceptable levels expected of the position. These standards may include, but are not limited to:

(a) Cognitive or technical skills;

(b) Ability to work;

(c) Initiative and productivity;

(d) Organization;

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(e) Motivation;

(f) Compatibility with coworkers, or;

(g) Any other circumstance or condition which is pertinent to performance in the position.

1004.4.2 RESPONSIBILITIES

It shall be the responsibility of each Division Captain/Coordinator to insure that current, accurate copies of job descriptions, eligibility criteria, performance standards and selection processes for each Specialized Assignment in his or her command are on file in the Personnel and Training Unit. The Personnel and Training Unit shall maintain and have available for review for each Specialized Assignment, current job descriptions, eligibility criteria, performance standards and selection processes. Modifications to job descriptions, eligibility criteria, performance standards or selection processes shall not occur without notification to the Personnel and Training Lieutenant and PAPOA.

## 1004.5 APPLICATIONS

Qualified sergeants, agents or officers interested in applying for any Specialized Assignment shall submit an "Application for Specialized Assignment," to the responsible manager listed on the posting. Applications may be obtained from Personnel and Training. The responsible manager shall review all applications to ensure that applicants meet minimum eligibility criteria. If, in the judgment of the responsible manager, an applicant fails to meet minimum eligibility criteria, the manager shall, as soon as practical, notify the applicant that his or her application will not be accepted and the reasons thereof.

1004.5.1 SUPERVISORY RECOMMENDATION

After having reviewed the "Applications for Specialized Assignment," the responsible manager shall request written input from each qualified candidate's supervisors during the last two (2) fiscal years. An evaluation form shall be used for this purpose. The form shall be retained for one (1) year by Personnel and Training with the rater's notes for the individual candidate and shall be available for review by the candidate.

1004.5.2 TESTING

It shall be the responsibility of the responsible manager to plan and administer a fair, job- related test to evaluate qualified candidates. Based on the nature of the specialized assignment, testing may consist of a single process, such as an oral board, or may include multiple processes such as a written exam, an oral board and/or a practical exam. Each process used shall be scored, using 70% as a passing score. Applicants failing any single process shall be disqualified from further consideration and shall not be allowed to participate in remaining processes. Additionally, some specialized positions may require psychological screening.

1004.5.3 INTERVIEWS

All interviews shall consist of a panel of two or three people who are currently assigned to the specialty. The manager who is responsible for the specialty assignment shall be one of the panel members. The panel for an acting supervisor/lieutenant assignment shall consist of the Lieutenant

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or Captain that will be managing the acting position and the Chief. Interview questions shall be consistent for each candidate. A standard set of questions will be developed before the interview. The interview panel may ask follow-up questions based on candidate responses. Questions shall be limited to areas that relate to suitability for the position, and assess such areas as:

(a) Cognitive and technical skills;

(b) Experience;

(c) Motivation;

(d) Ability to perform essential job functions.

Questions regarding non-job-related factors are not permitted. Rater notes shall be collected and retained by the Personnel and Training Unit for a period of one year. Rater notes will be used to evaluate candidate suitability, and to provide candidate feedback. Candidates may upon request review notes of the raters.

## 1004.6 SELECTION

Selection of personnel for Specialized Assignments shall be based upon merit.

The responsible manager shall compile an eligibility list of all passing candidates. The responsible manager shall then recommend to the appropriate Division Captain/Coordinator a selection from the eligible candidates based on consideration of such factors as performance during testing processes, performance appraisals, supervisory recommendations and personnel records. If the Division Captain/Coordinator concurs with the selection, he or she shall seek final approval for the selection from the Chief. The Chief shall remain the final authority for selection of personnel for Specialized Assignments.

Any candidate who passes the selection process but is not selected for a specialized assignment may request verbal or written feedback from the responsible manager recommending the selection.

### 1004.6.1 NON-SELECTION

If an appointment is not made (Sergeant, Agent, Officer) the Division Captain/Coordinator may re-post and re-interview for the positions.

In the event that no acceptable applicants are identified, the positions may be filled based upon established seniority criteria with the following exceptions:

(a) Those sergeants, agents and officer already in specialty assignments will not be considered;

(b) Those sergeants, agents, officers who have served the maximum tenure in a specialty position and are exempt from administrative assignment for a one- year period of time will not be considered. In the event all sergeants, agents, officers without such exemption are deemed unacceptable by the Division Captain/Coordinator, the least senior sergeant with this exemption shall be subject to administrative assignment to the Specialized Assignment.

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## 1004.7 DURATION OF ASSIGNMENT

Tenure in any specialized assignment shall be based upon continued accomplishment of the performance standards of the position. Candidates may be removed from specialized assignments for failure to meet performance standards and/or disciplinary reasons.

Each specialized assignment shall have an established time "cap" which limits the maximum duration of the assignment. Exceptions to established caps must be approved by the Chief of Police. Normally, exceptions will be considered only in exigent circumstances, when the mission of the Department is threatened by normal rotation.

Caps on part-time specialties can be waived when the Department elects to expand the number of part-time specialties; when no new applicants apply; or when the mission of the Department would be threatened by normal rotation.

### 1004.7.1 PART-TIME SPECIALIZED ASSIGNMENT CAPS

- Public Information Officer 2 year minimum
- Recruiting Team 2 year minimum
- Bicycle Team 2 year minimum
- Defensive Tactics Officer 2 year minimum
- First Aid/CPR Instructor 2 year minimum
- Designated Rifle Officer 2 year minimum
- Driving Instructor 2 year minimum
- Crime Scene Investigation Officer 2 year minimum
- Range Master 2 year minimum
- Special weapons and tactics 2 year minimum
- Specialized Traffic Accident Reconstruction Team 2 year minimum
- Crisis Negotiation Team 2 year minimum
- CISM Team 2 year minimum

There is no maximum time in a part time specialized assignment, however this does not prohibit the Chief of Police or his/her designee from removing an officer from a part time specialized assignment for the purpose of rotating personnel, employee development or any other organizational need.

### 1004.7.2 FULL TIME SPECIALIZED ASSIGNMENT CAPS

- Personnel & Training Supervisor 1 year minimum 3 year maximum
- Staff Assistant (FSD) 1 year minimum 3 year maximum
- ISD (Property Crimes) 1 year minimum 3 year maximum

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- ISD (Robbery/Homicide) 2 year minimum 5 year maximum
- ISD (Sexual Assault) 2 year minimum 5 year maximum
- ISD (Financial Crimes) 2 year minimum 5 year maximum
- ISD (Elder Abuse/Domestic Violence 2 year minimum 5 year maximum
- ISD (High Tech Task Force) 3 year minimum 5 year maximum
- ISD Sergeant (2) 2 year minimum 3 year maximum
- Canine 5 year minimum 7 year maximum *****
- Traffic (non-motor) 1 year minimum 1 year maximum
- Traffic (motor) 3 year minimum 5 year maximum
- Traffic Sergeant (motor) 3 year minimum 5 year maximum
- Field Training Sergeant 1 year minimum 3 year maximum
- Field Training Officer 2 year minimum 5 year maximum
- Special Enforcement Detail 1 year minimum 1 year maximum
- Psychiatric Emergency Response (PERT) Officer 1 year minimum 3 year maximum

***** The canine maximum may be extended beyond 7 years upon mutual agreement between the canine handler and management.

### 1004.7.3 REQUIRED PATROL ASSIGNMENT

Agents and officers applying for a full-time Specialized Assignment outside of the uniformed patrol division (such as FSD Staff Assistant, P&T Supervisor, ISD) must complete twelve (12) consecutive months on a Field Services Division patrol team immediately prior to transfer to a Specialized Assignment. While there is no requirement that sergeants return to the Field Services Division for twelve (12) consecutive months, preference in the selection of sergeants for Specialized Assignment will generally be given to sergeants currently assigned to non-specialized assignments.

Personnel may apply for Specialized Assignments prior to serving twelve (12) months in Patrol, however, are not eligible for transfer until the twelve (12) months are completed.

### 1004.7.4 EXCEPTIONS

Exceptions to this requirement are as follows:

(a) Agents and officers assigned to the Investigative Services Division and applying for vacancies in Task Forces, High Tech Financial Crimes, Robbery/Homicide, Sexual Assault, Elder Abuse/Domestic Violence are exempt from this section. If selected, however, such personnel shall be subject to the new position's cap;

(b) Officers having completed twenty (20) years of service and retiring within twelve (12) months may apply to the Chief for a one-year exemption to this policy.

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## 1004.8 MID YEAR VACANCIES

(a) Specialty Assignments that are filled from January 1 through June 30, shall not count toward the first year of a Specialty Assignment. Specialty Assignments that are filled from July 1 through December 31, shall count towards the first year of a Specialty Assignment.

(b) Temporary assignments of sixty (60) days or less are not considered Specialized Assignments and are excluded from the provision of this policy.

## 1004.9 SPECIALTY SUPERVISOR VACANCY ASSIGNMENTS

(a) Supervisor Vacancies anticipated for less than sixty (60) days:

1. Opening(s) will be posted and interested candidates will have an opportunity to submit a memorandum of interest to the respective Division Captain.
2. An eligible Sergeant, Agent or Officer will be administratively appointed.
3. The decision to fill a position with either a Sergeant or an Acting Sergeant will take into account such considerations as: The greater mission of the organization; the professional development of department personnel; the current needs of the respective division/unit where the opening exists; the qualifications and specialized skills of the candidate(s); staffing impacts; and, when Agents or Officers are being considered, those not having had prior acting opportunities or presently residing on the promotional list.

(b) Supervisor Vacancies anticipated for more than sixty (60) days:

1. The position(s) will be open to qualified Sergeant, Agents and Officers.
2. The selection process as outlined in Policy Manual §§ 1004.42 through 1004.6 will be employed.
3. The decision to fill a position with either a Sergeant or an Acting Sergeant will take into account such considerations as: The greater mission of the organization; the professional development of department personnel; the current needs of the respective division/unit where the opening exists; the qualifications and specialized skills of the candidate(s); staffing impacts; and, when Agents or Officers are being considered, those not having had prior acting opportunities or presently residing on the promotional list.

(c) Exceptions:

1. If an opening is anticipated to be vacant for more than ninety (90) days and is expected to remain vacant through the duration of the current Shift Year, and;
2. Occurs in a Full-Time Specialized Assignment:
    (a) ISD
    (b) Traffic
    (c) Field Training Program
    (d) Special Operations

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(e) Special Problems Team

(f) Public Relations (If filled by a Sergeant)

3. Then only Sergeants would be eligible to apply for the opening. If no Sergeants applied, then an acting opportunity would be extended to Agents and Officers.

4. The selection process as outlined in Policy Manual §§ 1004.42 through 1004.6 will be employed.

5. Selection criteria will consider the greater mission of the organization, professional development of department personnel, the current needs of the respective division/unit where the opening exists, staffing impacts; and, qualifications and specialized skills of the candidate(s).

(d) The guesstimate of vacancy lengths will be made in good faith, based upon the facts and information known at the time of posting.

1004.9.1 PART-TIME SPECIALTY SUPERVISOR SELECTION

1. Annually, as part of the shift selection process, Sergeants will be given the opportunity to submit a memorandum to the Field Services Captain as to their interest in maintaining their current part-time specialty assignment as well as their interest in any other part-time specialty positions. The Field Services Captain will review the memorandums and make adjustments to current teams as necessary.

2. Any eligible Sergeant can be administratively assigned to a part-time specialty.

3. The decision to appoint a part-time specialty supervisor position will take into account such considerations as: The greater mission of the organization; the professional development of department personnel; the current needs of the respective division/unit where the opening exists; the qualifications and specialized skills of the candidate(s) and to the extent possible, the preferences of the individual Sergeant.

4. To encourage succession planning a co-supervisor may be appointed as deemed necessary.

5. Mid-year vacancies will be announced and Sergeants interested in filling open positions may submit a memorandum to the Field Services Captain.

## 1004.10 PROMOTIONAL PROCESS

It shall be the policy of the Palo Alto Police Department to maintain a fair and consistent, performance based promotional process, which identifies the most qualified candidates for promotion, provides equal opportunity to all qualified candidates, and supports each employee in their professional growth.

## 1004.11 PROCEDURES

1004.11.1 SCHEDULING AND ANNOUCEMENTS

(a) Promotional tests for the ranks of Sergeant and Agent shall be given annually.

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(b) The Personnel and Training Unit shall post a promotional reading list, specific to each rank. The Police Chief shall determine the content of the reading list. Copies of items listed on the reading list will be maintained in the Personnel and Training Unit.

(c) Promotional testing process announcements shall be posted by the Personnel and Training Unit no later than sixty (60) days prior to the date of the testing process.

(d) Promotional announcements shall contain: a job description, minimum application qualifications, the reading list, the date(s) of the process, the elements of the selection process, the challenge procedure and the relative weight and scoring of each phase of the process.

(e) On the posting date of any promotional announcement, a departmental memorandum, in the form of an email, announcing the posting shall be sent to all members of the Department. Additionally, promotional announcements shall be posted conspicuously throughout the Department.

1004.11.2 MINIMUM ENTRY REQUIREMENTS

(a) Agent

1. Three (3) years full time experience as a peace officer, the last two (2) years of which must have been with the Palo Alto Police Department by the closing date of the posting;
2. First Class Officer Status by the closing date of the posting;
3. College degree preferred.

(b) Sergeant

1. Four (4) years full time experience as a peace officer, the last two (2) years of which must have been with the Palo Alto Police Department by the closing date of the posting; First Class Officer status by the closing date of the posting;
2. POST Intermediate Certificate;
3. College degree preferred.

(c) Lieutenant

1. A minimum of two (2) years experience as a police sergeant by the closing date of the posting;
2. Bachelor's degree or an equivalent combination of training and experience as determined by the Police Chief
3. POST Supervisory Certificate or an equivalent combination of training and experience as determined by the Police Chief.

(d) Captain

1. A minimum of two (2) years experience as a police lieutenant by the closing date of the posting;
2. Bachelor's degree. Graduate level work preferred;

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3. POST Management Certificate or equivalent combination of training and experience as determined by the Police Chief;
4. Command College or FBI National Academy preferred.

(e) Assistant Chief

1. A minimum of five (5) years combined experience as a police lieutenant and police captain;
2. Bachelor's degree in law enforcement, public or business administration, or related field. Master's degree preferred;
3. POST Management Certificate or equivalent combination of training and experience as determined by the Police Chief;
4. Command College or FBI National Academy preferred.

### 1004.11.3 ELEMENTS OF THE PROMOTIONAL TESTING PROCESS

Testing and evaluation processes shall be non-discriminatory and job related. Each element of the promotional process shall be designed to evaluate relevant job knowledge, skills and abilities. Testing and evaluation processes may include any, or any combination of, the following elements:

(a) Application/ Resume Review (All ranks);

(b) Written Examination (Sergeant and Agent ranks);

(c) Problem Solving/ Writing Assignment (All ranks);

(d) Oral Examination (All ranks);

(e) Practical/ Assessment Center Exercises/ Panel Interviews (Management ranks);

(f) Staff/ Supervisory Input/ Background Investigation (All ranks);

(g) Review of Personnel, Training and Internal Affairs records (All ranks);

(h) Chief's Interview (All ranks).

### 1004.11.4 TESTING PROCESS AND SCORING

Test Construction: Testing process elements may be developed by any, or any combination of, the following:

- Human Resources Department;
- Personnel Department;
- Management Personnel; and/or
- Reputable consulting firms.

Scoring: Scored elements of the testing process, for the Sergeant and Agent rank shall include:

- Written tests;
- Problem solving/ writing exercises; and
- Oral examinations.

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In addition to these elements, scored elements for management ranks may also include practical/ assessment center exercises. Each separate element shall be scored on a percentage basis. Scores shall be rounded off to the nearest 100th of a percentage point. A minimum score of 70% shall be necessary in each phase of the process to proceed to the next level of testing, with the exception that if the same written test is used for both Agent and Sergeant candidates, a score of 80% shall be required for Sergeant candidates. Relative Weight: A relative weight shall be assigned to each scored element of the testing process. Weights for Sergeant and Agent processes shall be:

- Written- 30%;
- Problem Solving/ Writing Exercise-30%;
- Oral Examination- 40%.

Relative weights for management processes shall be determined by the Police Chief. Anonymity: In all scored phases of the testing process candidates will be identified by number. Every effort will be made to maintain anonymity between candidates and raters. Written Examinations:

- For Sergeant and Agent testing processes, the examination will be validated by a reputable consulting firm, approved by both Department management and PAPOA;
- Content of written examinations shall be limited to sources listed on the reading list. Source and page number will be noted on the test;
- A representative from the Human Resources Department and a member of the Personnel and Training Unit shall be in attendance at the written examination to proctor the examination and to answer any questions that may arise;
- Should a candidate elect to challenge any question on the written examination, the candidate may do so based on: the keyed answer being incorrect; more than one answer being correct, or the keyed answer conflicting with Department policy. For Agents' and Sergeants' testing processes, a three-member board to rule on challenged questions will be chaired by a Human Resources representative and will include a PAPOA representative and a representative of the Police Personnel and Training Unit. If, by a majority vote, the board rules in favor of the challenger, the question(s) will be deleted from the exam and all candidates' scores adjusted accordingly.

Problem Solving/Writing Assignment:

- Candidates shall be required to read and analyze one or more problems and respond as directed;
- Problems will be job related and to the extent possible, specific to the promotional position;
- To satisfactorily complete the Problem Solving/Writing Assignment, candidates will be required to demonstrate basic proficiency on the City of Palo Alto's designated word processing software, Microsoft Word;
- For Agents' and Sergeants' testing processes, Problem Solving/ Writing Assignments shall be scored by a minimum three raters who have been previously approved

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by Department Management and PAPOA. Raters will receive training prior to the grading process. Raters will work independently. Scores shall be based 33% on written communication skills, 33% on problem solving ability and 33% on judgment and decision making. A candidate's final score shall be the mean (average) of the total scores from each rater.

Oral Examinations:

- Oral boards for the ranks of Sergeant and Agent shall consist of four members, mutually agreed upon by Department management and PAPOA. One member shall be a Palo Alto Police Department employee. Two members of the oral board shall be selected from outside law enforcement agencies. One member shall be a citizen of good standing from the Palo Alto community. All members selected from law enforcement agencies shall hold a rank at least one rank higher than the position for which they are testing.
- Oral examinations shall be "structured" with the questions or problems consistent for each candidate.
- Candidates shall be rated on a standardized rating form, which will be available for review, by the candidate at the conclusion of the process.

Practical/ Assessment Center Exercises (Management Only):

- Practical and/or assessment center exercises, prior to being administered, shall be reviewed and approved by a professional personnel specialist.
- Assessors will be thoroughly trained prior to practical or assessment center exercises.
- Candidates shall be rated on a standardized form, which will be available for review, by the candidate at the conclusion of the process.

Staff Input: The Police Chief may solicit input from Police Department staff at the rank of the promotional candidates' immediate supervisor or higher.

- Staff input shall include an evaluation of each candidate's previous work performance, knowledge, skills and abilities.
- Staff input shall be presented on a standardized form, which shall be available for review, by the candidate at the conclusion of the process.
- A thorough background investigation will be conducted on all non-PAPD candidates.

Chief's Interview: The Chief's interview shall be the final element in any promotional process.

- The Chief's interview may, at the discretion of the Police Chief, include the Assistant Police Chief.
- If the Assistant Police Chief is included for any interview, he or she shall be included for all interviews.
- The interview shall be structured in nature, consistent for all candidates, and focus on each candidate's relative experience, knowledge, skills, abilities and contributions to the Department.
- The Chief's interview will not be scored.

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- For a single promotion, the Chief will interview the top ten candidates on the final ranking list. For multiple promotions, the Chief will interview a number of candidates equal to the number of promotions plus ten.

1004.11.5 FINAL RANKING LIST

(a) Final ranking shall be determined by applying the assigned weights to the scores of the test elements.

(b) The names and scores of all candidates with passing scores will be posted in numerical order.

(c) If at the time of appointment the final ranking list contains three or less candidates, the chief may, at his or her discretion, elect to promote from the list or to terminate the list.

(d) Lists shall automatically expire twelve months after posting.

1004.11.6 COACHING AND FEEDBACK

(a) The Personnel and Training Unit shall, no less than once a year, present a coaching class to assist candidates in preparation for the written, problem solving/writing exercise, oral examinations, and practical/assessment center exercises.

(b) The purpose of candidate feedback is to help candidates improve their performance in subsequent promotional processes. Candidates may schedule feedback meetings after any promotional process by contacting the Personnel and Training Unit. The Personnel and Training Unit will review with each candidate that candidate's performance on each element of the promotional process and provide advice on how the candidate might improve performance.

**1004.12 POLICY ISSUE DATE**

Updated: 12-19-16

Updated 3-2-17

Updated: 11-03-21

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# Grievance Procedure

## 1006.1 PURPOSE AND SCOPE

It is the policy of this [department/office] that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. Our [Department/Office]'s philosophy is to promote a free verbal communication between employees and supervisors.

### 1006.1.1 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- The employee bargaining agreement (Memorandum of Understanding)
- This Policy Manual
- City rules and regulations covering personnel practices or working conditions

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any [department/office] employee that, if true, would constitute a violation of [department/office] policy, federal, state, or local law as set forth in the Personnel Complaint Policy.

## 1006.2 PROCEDURE

If an employee feels that he or she has a grievance as defined above, then that employee shall attempt to resolve the grievance at the lowest possible level through their chain of command. The employee shall be prepared to present the following:

(a) The basis for the grievance, ie, the facts of the case;

(b) Allegations of specific wrongful act(s) and harm done;

(c) What they would like to accomplish through the grievance.

If the grievance cannot be resolved at the lowest level, the employee has the right to pursue their grievance in accordance with their specific bargaining agreement and the City's Merit Rules and Regulations. The grievance procedure is specifically outlined in the City's Merit Rules as well as the specific restrictive time-lines that need to be followed.

## 1006.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

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### 1006.4 GRIEVANCE RECORDS

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to Administrative Services for inclusion into a secure file for all written grievances. A second copy of the written grievance will be maintained by the City Manager's office to monitor the grievance process.

### 1006.5 GRIEVANCE AUDITS

The Personnel and Training Lieutenant shall perform an annual audit of all grievances filed the previous calendar year to evaluate whether or not any policy/procedure changes or training may be appropriate to avoid future filings of grievances. The Personnel and Training Lieutenant shall record these findings in a confidential and generic memorandum to the Chief of Police without including any identifying information from any individual grievance. If the audit identifies any recommended changes or content that may warrant a critical revision to this policy manual, the Personnel and Training Lieutenant should promptly notify the Chief of Police.

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# Anti-Retaliation

## 1008.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

## 1008.2 POLICY

The Palo Alto Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

## 1008.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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1008.3.1 RETALIATION PROHIBITED FOR REPORTING VIOLATIONS
An officer shall not be retaliated against for reporting a suspected violation of a law or regulation of another officer to a supervisor or other person in the [Department/Office] who has the authority to investigate the violation (Government Code § 7286(b)).

## 1008.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Personnel and Training Lieutenant.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

## 1008.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.

(b) Receiving all complaints in a fair and impartial manner.

(c) Documenting the complaint and any steps taken to resolve the problem.

(d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.

(e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.

(f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.

(g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.

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(h) Not interfering with or denying the right of a member to make any complaint.

(i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

## 1008.6 COMMAND STAFF RESPONSIBILITIES

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

(a) Communicating to all members the prohibition against retaliation.

(b) The timely review of complaint investigations.

(c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.

(d) The timely communication of the outcome to the complainant.

## 1008.7 WHISTLE-BLOWING

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

(a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.

(b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.

(c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.

(d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.

(e) Are family members of a person who has engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Internal Affairs Unit for investigation pursuant to the Personnel Complaints Policy.

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1008.7.1 DISPLAY OF WHISTLE-BLOWER LAWS
The [Department/Office] shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

## 1008.8 RECORDS RETENTION AND RELEASE
The Records Manager shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

## 1008.9 TRAINING
The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

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# Reporting of Arrests, Convictions, and Court Orders

## 1010.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that members must follow when certain arrests, convictions, and court orders restrict their ability to perform the official duties and responsibilities of the Palo Alto Police Department. This policy will also describe the notification requirements and procedures that certain retired officers must follow when an arrest, conviction, or court order disqualifies them from possessing a firearm.

## 1010.2 POLICY

The Palo Alto Police Department requires disclosure of member arrests, convictions, and certain court orders to maintain the high standards, ethics, and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the [Department/Office].

## 1010.3 DOMESTIC VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and California law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of the use or attempted use of force, or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members and retired officers with identification cards issued by the [Department/Office] are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order, and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

## 1010.4 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty, or nolo contendere plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on a member's ability to fully perform the duties of the job.

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member's ability to possess a firearm.

While legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this [department/office] may be inherently in conflict with law enforcement duties and the public trust, and shall be reported as provided in this policy.

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## 1010.5 REPORTING

All members and all retired officers with an identification card issued by the [Department/Office] shall immediately notify their supervisors (retired officers should immediately notify the Watch Commander or the Chief of Police) in writing of any past or current criminal detention, arrest, charge, or conviction in any state or foreign country, regardless of whether or not the matter was dropped or rejected, is currently pending or is on appeal, and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the [Department/Office] shall further promptly notify their supervisors (retired officers should immediately notify the Watch Commander or the Chief of Police) in writing if they become the subject of a domestic violence-related order or any court order that prevents the member or retired officer from possessing a firearm or requires suspension or revocation of applicable POST certification.

Any member whose criminal arrest, conviction, or court order restricts or prohibits that member from fully and properly performing their duties, including carrying a firearm, may be disciplined. This includes but is not limited to being placed on administrative leave, reassignment, and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member, on the member's own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline, up to and including termination.

Retired officers may have their identification cards rescinded or modified, as may be appropriate (see the Retiree Concealed Firearms Policy).

### 1010.5.1 NOTIFICATION REQUIREMENTS

The Administrative Services Division Captain shall submit within 10 days of final disposition a notice to POST of a conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this [department/office] or any former peace officer if this [department/office] was responsible for the investigation (11 CCR 1003).

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# Address and Telephone Number Changes

## 1011.1 PURPOSE AND SCOPE

Employees are subject to "call" on a twenty-four (24) hour basis to ensure that major events have an adequate response. Therefore, it shall be the Palo Alto Police Department's policy that all employees shall have a telephone at their primary residence. Further, it is imperative that the "call-up" list be maintained and kept current.

## 1011.2 PROCEDURE

All employees of the Palo Alto Police Department shall report any change in their address or telephone number within twenty-four (24) hours. Such information shall be directed to the employee's immediate supervisor and the Personnel and Training Lieutenant in writing.

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# Drug- and Alcohol-Free Workplace

## 1012.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

## 1012.2 POLICY

It is the policy of this [department/office] to provide a drug- and alcohol-free workplace for all members.

## 1012.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on [department/office] time can endanger the health and safety of [department/office] members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

### 1012.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the [Department/Office] while taking any medication that has the potential to impair the member's abilities, without a written release from the member's physician.

### 1012.3.2 MEDICAL CANNABIS

Possession, use, or being under the influence of medical cannabis on-duty is prohibited and may lead to disciplinary action.

## 1012.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on [department/office] premises or on [department/office] time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

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Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

## 1012.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Personnel and Training, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

## 1012.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the [Department/Office].

## 1012.7 SCREENING TESTS

A supervisor may require an employee to submit to a screening under any of the following circumstances:

(a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing the employee's ability to perform duties safely and efficiently.

(b) The employee discharges a firearm in the performance of the employee's duties (excluding training or authorized euthanizing of an animal).

(c) The employee discharges a firearm issued by the [Department/Office] while off-duty, resulting in injury, death, or substantial property damage.

(d) The employee drives a motor vehicle in the performance of the employee's duties and becomes involved in an incident that results in bodily injury, death, or substantial damage to property.

### 1012.7.1 SUPERVISOR RESPONSIBILITIES

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

(a) The test will be given to detect either alcohol or drugs, or both.

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(b) The result of the test is not admissible in any criminal proceeding against the employee.

(c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

1012.7.2 DISCIPLINE

An employee may be subject to disciplinary action if the employee:

(a) Fails or refuses to submit to a screening test as requested.

(b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that the employee took the controlled substance as directed, pursuant to a current and lawful prescription issued in the employee's name.

## 1012.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the [Department/Office] will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

## 1012.9 CONFIDENTIALITY

The [Department/Office] recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

## 1012.10 POLICY ISSUE DATE

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# Sick Leave

## 1014.1 PURPOSE AND SCOPE

Employees of this department are provided with a sick leave benefit that gives them continued compensation during times of absence due to personal or family illness. The number of hours available and terms of use are detailed in the employee's respective personnel manual or applicable collective bargaining agreement. In the event an employee is sick and has depleted his/her sick leave balance, he/she may be placed in an unpaid status for missed work.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) , the California Family Rights Act, leave related to domestic violence, sexual assault, stalking or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

## 1014.2 EMPLOYEE RESPONSIBILITIES

Sick leave may be used for absences caused by illness, injury, diagnosis, care or treatment for existing health conditions, temporary disability (including pregnancy/maternity), or for medical, dental or vision exams or medical treatment of the employee or the employee's immediate family when it is not possible to schedule such appointments during non-working hours.

Sick leave is not considered vacation, and abuse of sick leave may result in discipline and/or denial of sick-leave benefits. Employees on sick leave shall not engage in other employment or self-employment, or participate in any sport, hobby, recreational or other activity which may impede recovery from the injury or illness.

Upon return to work, employees shall complete and submit a leave request describing the type of leave used and the specific amount of time taken.

### 1014.2.1 NOTIFICATION

All employees scheduled to work in the Field Services Division are required to call Communications and report their absence. The call taker will create a call for service and route it to the on-duty supervisor for handling. The on-duty supervisor is responsible for ensuring any staffing deficiencies are filled. All other Department employees are required to contact the appropriate supervisor to report their absence. All employees are encouraged to report their absence as soon as they are aware that they will not be able to report to work. Barring an emergency, employees shall make such notification no less than one hour before the start of their scheduled shift. If an employee is unable to make the appropriate notification,every effort should be made to have a representative call on his/her behalf.

When the necessity for leave is foreseeable, such as an expected birth or planned medical treatment, the employee shall, whenever possible, provide the Department with no less than 30-days' notice of the intent to take leave (Labor Code § 246).

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Sworn personnel assigned to training, such as Sergeants' meetings or CPTs, shall contact the Personnel and Training Supervisor or Lieutenant to report his/her absence.

### 1014.3 EXTENDED ILLNESS

Employees on extended absences shall, if possible, contact their unit supervisor at three-day intervals to provide an update on their absence and expected date of return. Employees absent from duty due to personal illness in excess of three consecutive days may be required to furnish a statement from their health care provider supporting the use of sick leave and/or the ability to return to work.

Nothing in this section precludes a supervisor, with cause, from requiring a health care provider’s statement if three or fewer sick days are taken after the first three days of paid sick leave are used in a 12-month period.

### 1014.4 SUPERVISOR RESPONSIBILITY

Supervisors should monitor sick leave usage and regularly review the attendance of employees under their command to ensure that the use of sick leave is consistent with this policy. Supervisors should address sick-leave use in the employee’s performance evaluation when it has negatively affected the employee’s performance or ability to complete assigned duties, and when unusual amounts of sick leave by the employee has had a negative impact on department operations. When appropriate, supervisors should counsel employees regarding the excessive use of sick leave and should consider referring the employee to the Employee Assistance Program.

### 1014.5 REQUIRED NOTICES

The Personnel and Training Lieutenant shall ensure:

(a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.

(b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

### 1014.6 POLICY ISSUE DATE

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# Communicable Diseases

## 1016.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of [department/office] members contracting and/or spreading communicable diseases.

### 1016.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Palo Alto Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

## 1016.2 RESPIRATORY PROTECTION PROGRAM

### 1016.2.1 PURPOSE AND SCOPE

The Palo Alto Police Department is committed to preventing injury and illness in the workplace and makes every effort to protect our employees from harmful airborne substances.

The Department has determined that employees may be exposed to certain airborne hazards like riot control agents and Tuberculosis during routine and emergency situations. The purpose of this program is to ensure that police employees are protected from exposure to respiratory hazards.

This general order establishes a respiratory protection program for police personnel. This program will comply with the California Code of Regulations, Title 8, § 5144, Respiratory Protection.

### 1016.2.2 APPLICATION

This program applies to all police personnel who are required to wear respirators during normal work operations and during emergency situations.

Participation in this program is mandatory for all reserve officers, officers, agents, sergeants, and lieutenants. Any employee who voluntarily wears a respirator or filtering face piece, when a respirator is not required is subject to the medical evaluation, fit test, cleaning, maintenance, and storage elements of this program.

Employees participating in the respiratory protection program do so at no cost. The expense associated with the training, medical evaluations and respiratory protection equipment will be borne by the City of Palo Alto.

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### 1016.2.3 POLICY

Employees will use their respirators under conditions specified by this policy, and in accordance with the training they receive on the use of each model. In addition, the respirator shall not be used in a manner for which it is not certified by NIOSH or by its manufacturer.

### 1016.2.4 RESPONSIBILITIES

(a) **Program Administrator**: The Program Administrator is responsible for administering the respiratory protection program. The Safety Officer is the Program Administrator for the City of Palo Alto. Duties of the Program Administrator includes:

1. Evaluate respiratory hazards;
2. Arrange for qualitative fit testing using an accepted OSHA protocol;
3. Administer the medical surveillance program;
4. Maintain records required by the program;
5. Evaluate the program;
6. Update the written program, as needed;

(b) **Police Department Coordinator**: The Field Services Captain will assign one member of the Department to act as the Police Department's respiratory protection program coordinator. Duties of the Program Coordinator includes:

1. Purchase, maintain and inventory of respirators and filter canisters;
2. Coordinate with the Program Administrator on how to address respiratory hazards or other concerns regarding the program;
3. Ensure employees attend the required training;
4. Identify work areas and tasks that require workers to wear respirators;
5. Select respiratory protection options;
6. Ensure proper storage and maintenance of respiratory protection equipment;
7. Ensure that employees under their supervision (including new hires) have received the appropriate training, fit testing, and annual medical evaluation;
8. Ensure the availability of appropriate respirators and accessories;
9. Awareness of tasks requiring the use of respiratory protection;
10. Enforce the proper use of respiratory protection when necessary;
11. Ensure that respirators are properly cleaned, maintain, and stored according to manufacturers specifications;
12. Continually monitor work areas to identify respiratory hazards.

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(c) **Employees**: It is the responsibility of the employee to have an awareness of the respiratory protection requirements for his or her work areas in accordance with the City's respiratory protection program. Employees are responsible for wearing the appropriate respiratory equipment according to instructions. Employees are also responsible to observe all factors and conditions required to demonstrate a good respirator fit and adequate face seal. Employees must also:

1. Care for and maintain respiratory protection equipment as instructed;
2. store respiratory protection equipment in a clean and sanitary location; I
3. Inform their supervisors, if the respirator no longer fits well and to request a new one that fits properly;
4. Inform their supervisor or the Program Administrator of any respiratory hazards that they feel is not adequately addressed in the workplace and of any concerns that they have regarding the program;

### 1016.2.5 WORKPLACE EXPOSURE ASSESSMENT

The type of airborne hazards presented to police personnel occurs in situations where engineering controls are not feasible or adequate. Control of airborne hazards through employee's use of respirators will provide emergency protection against occasional and relatively brief exposures. The results of the current hazard evaluation have identified the following potential exposure risks:

(a) Potential risk of exposure to CN and CS gas during enforcement and training. The Department utilizes both CN and CS gas. The gas can be delivered by shotgun grenades and via a 37mm launcher. The deployment of CN and CS gas is restricted to members of the Special Weapons and Tactics Team (SWAT); however, it is recognized that CN and CS gas can spread and affect other people in the area. Properly worn full-face purifying respirators are effective for protecting the eyes, nose, mouth, and throat from CN and CS gas.

(b) Potential risk of exposure to OC spray during enforcement and training. The Department utilizes OC spray in MK-3 canisters for use by individual officers, and large area foggers are used by SWAT for crowd control. Properly worn full-face air purifying respirators are effective for protecting the eyes, nose, mouth, and throat from OC spray.

(c) Potential risk of exposure to tuberculosis (TB) while interacting with individuals likely to be infected. The use of a one half face respirator has been shown to be effective in protecting the wearer from TB.

### 1016.2.6 RESPIRATORY EQUIPMENT SELECTION AND USE

There are two different pieces of equipment that fall under the category of respirators that Palo Alto Police Department field employees shall be provided:

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(a) The first is a full-face air purifying respirator, commonly known as a gas mask, which will be the MSA Advantage 1000 or similar respirator. This full-face respirator is to be used to protect the employee from chemical agents such as CN and CS. The employee is advised that the full-face respirator is National Institute for Occupational Safety and Health (NIOSH) certified to protect against CN and CS, and is effective but not certified in protecting against OC, Sarin, Hydrogen Cyanide, and other chemicals. The respirator is not intended to protect against all Weapons of Mass Destruction type agents and does not supply its own oxygen.

(b) The second type of respirator supplied to field employees is the one half face N95 respirator. This respirator closely resembles a mesh surgical mask or dust mask and is intended to protect the employee against Tuberculosis (TB.) The one half face N95 respirator will be the 3M respirator or similar product. The one half face respirator is not designed to protect the wearer against chemical agents but rather is useful in protecting the wearer from contracting TB from a TB victim. These one half face respirators shall be kept in the patrol and CSO vehicle first aid kits. A field employee may retain extra one half face masks if they desire. The N95 filters exhaled air outside the mask so logically the mask would not be appropriate to place on a TB victim. The mask is instead only for use by the employee.

### 1016.2.7 REQUIREMENTS

Reserves, officers, agents, sergeants, and lieutenants will be issued air-purifying respirators. These employees are required to have their respirators available in the field when working uniformed assignments. One half face TB respirators will be kept in vehicle first aid kits.

Reserves, officers, agents, sergeants, and lieutenants should make every effort to wear their respirators in situations involving harmful exposures. It is recognized that in emergency situations, employees may be unable to obtain and don a respirator prior to deploying harmful agents such as CN, CS and OC. Employees should take appropriate action to avoid exposure. Respirators should be obtained and worn as soon as practical.

All respirators must be certified by NIOSH and shall be used in accordance with the terms of that certification. All filters, cartridges, and canisters must be labeled with the appropriate NIOSH approval label. The label must not be removed or defaced while it is in use.

Air-purifying respirators should not be used under the following conditions:

(a) When contaminants have poor warning properties; that is, when the contaminant can not be recognized by taste, smell or irritation at or below the permissible exposure limits;

(b) In oxygen-deficient atmospheres (below 19.5%);

(c) In atmospheres Immediately Dangerous to Life or Health (IDLH); and

(d) Atmospheres in which short exposures would cause death, injury or delayed reaction;

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When there is a respirator selection question remember to refer to the Material Safety Data Sheet for the appropriate personal protective equipment.

### 1016.2.8 USER SEAL CHECK

All employees shall conduct user seal checks each time they wear their respirator. Employees shall use the positive and negative pressure check specified in this policy.

The individual who uses a tight-fitting respirator is to perform a user seal check to ensure that an adequate seal is achieved each time the respirator is put on.

Either the positive and negative pressure checks listed in this policy, or the respirator manufacturer's recommended user seal check method shall be used. User seal checks are not substitutes for qualitative or quantitative fit tests.

### 1016.2.9 FACE PIECE POSITIVE PRESSURE CHECK

Close off the exhalation valve and exhale gently into the face piece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the face piece without any evidence of outward leakage of air at the seal.

For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

### 1016.2.10 FACE PIECE NEGATIVE PRESSURE CHECK

Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s), inhale gently so that the face piece collapses slightly, and hold the breath for ten seconds.

The design of the inlet opening of some cartridges cannot be effectively covered with the palm of the hand. The test can be performed by covering the inlet opening of the cartridge with a thin latex or nitrile glove. If the face piece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

### 1016.2.11 MANUFACTURER'S RECOMMENDED USER SEAL CHECK

The respirator manufacturer's recommended procedures for performing a user seal check may be used instead of the positive and/or negative pressure check procedures provided.

### 1016.2.12 RESPIRATOR CLEANING PROCEDURES

These procedures are provided for employer/employee use when cleaning respirators. They are general in nature, and the employer/employee as an alternative may use the cleaning recommendations provided by the manufacturer of the respirators. The Department must ensure that the respirator is properly cleaned and disinfected in a manner that prevents damage to the respirator and does not cause harm to the user.

(a) CLEANING PROCEDURES:

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1. Remove filters, cartridges, or canisters. Disassemble face-pieces by removing speaking diaphragms, demand and pressure-demand valve assemblies, hoses, or any components recommended by the manufacturer.
2. Discard or repair any defective parts.
3. Wash components in warm (43 deg. C [110 deg. F] maximum) water with a mild detergent or with a cleaner recommended by the manufacturer.
4. A stiff bristle (not wire) brush may be used to facilitate the removal of dirt.
5. Rinse components thoroughly in clean, warm (43 deg. C [110 deg. F] maximum), preferably running water. Drain.

(b) DISINFECTING-When the cleaner used does not contain a disinfecting agent, respirator components should be immersed for two minutes in one of the following:

1. Hypochlorite solution (50 ppm of chlorine) made by adding approximately one milliliter of laundry bleach to one liter of water at 43 deg. C (110 deg. F);
2. Aqueous solution of iodine (50 ppm iodine) made by adding approximately 0.8 milliliters of tincture of iodine (6-8 grams ammonium and/or potassium iodide/100 cc of 45% alcohol) to one liter of water at 43 deg. C (110 deg. F);
3. Other commercially available cleansers of equivalent disinfectant quality when used as directed, if their use is recommended or approved by the respirator manufacturer.

(c) COMPLETION:

1. Rinse components thoroughly in clean, warm (43 deg. C [110 deg. F] maximum), preferably running water. Drain. The importance of thorough rinsing cannot be overemphasized. Detergents or disinfectants that dry on facepieces may result in dermatitis. In addition, some disinfectants may cause deterioration of rubber or corrosion of metal parts if not completely removed.
2. Components should be hand-dried with a clean lint-free cloth or air-dried. Reassemble face piece, replacing filters, cartridges, and canisters where necessary.
3. Test the respirator to ensure that all components work properly.

### 1016.2.13 FILTER REPLACEMENT SCHEDULE

Filters will be stored in their sealed pouches until such time as an employee needs to deploy a respirator. Opened filters that have not been exposed to a hazardous substance will be replaced after 40 hours use. Opened filters that have been exposed, or that may have been exposed to a hazardous substance, will be replaced after 10 hours use.

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SWAT officers who expose their filters to live chemical agents at yearly trainings shall discard the exposed filter after training and be issued a sealed new one.

Unopened filters will be replaced every two years.

#### 1016.2.14 MEDICAL AND FIT TESTING

Employees who are either required to wear respirators, or who choose to wear a respirator voluntarily, must pass a medical exam before being permitted to wear a respirator on the job. The POST pre-employment exam covering respiratory protection will satisfy this requirement. Those employees will also be required to undergo qualitative TBN95 mask fit testing and a quantitative fit test for the full face mask to ensure a proper seal against the face. Medical and fit tests will be conducted in accordance with the City's policy.

Respirators cannot be worn when conditions prevent a good seal between the face of the wearer and the seal area of the respirator. Facial hair, sideburns, moustaches, long hairlines, or bands can pass between the sealing surface of the face piece and the face thus interfering with the function of the respirator valve(s) causing leakage of air or preventing air from entering the face piece on demand. Moustaches, small sideburns, hair length, and "Van Dyke" type beards are acceptable if they are worn in a manner so as not to come between the skin and the sealing surfaces of the respirator. All affected employees must comply with these regulations. No exceptions will be made.

#### 1016.2.15 EMPLOYEE SAFETY

All employees will be permitted to leave the respirator use area to wash their face and respirator face piece as necessary to prevent irritation associated with respirator use; if they detect vapor or gas breakthrough; changes in breathing resistance; or leakage of the face piece. They may also leave to replace the respirator, cartridges, or canister elements.

### 1016.3 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

(a) Exposure-prevention and decontamination procedures.

(b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.

(c) The provision that [department/office] members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.

(d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).

(e) Compliance with all relevant laws or regulations related to communicable diseases, including:

1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).

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2. Bloodborne pathogen mandates including (8 CCR 5193):
    (a) Sharps injury log.
    (b) Needleless systems and sharps injury protection.
3. Airborne transmissible disease mandates including (8 CCR 5199):
    (a) Engineering and work practice controls related to airborne transmissible diseases.
    (b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.
6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).

(f) Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other [department/office] members to fulfill the role when not available. The designated officer shall ensure that the name, title, and telephone number of the designated officer is posted on the [Department/Office] website (Health and Safety Code § 1797.188).

The ECO should also act as the liaison with the Division of Occupational Safety and Health (Cal/OSHA) and may request voluntary compliance inspections. The ECO shall annually review and update the exposure control plan and review implementation of the plan (8 CCR 5193).

## 1016.4 EXPOSURE PREVENTION AND MITIGATION

### 1016.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

(a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or [department/office] vehicles, as applicable.

(b) Wearing [department/office]-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.

(c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.

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(d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.

(e) Using an appropriate barrier device when providing CPR.

(f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.

(g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.

1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/ decontaminated appropriately.

(h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.

(i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.

(j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1016.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

## 1016.5 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

(a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.

(b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.

(c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

## 1016.6 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

## 1016.7 POST EXPOSURE

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### 1016.7.1 COUNSELING

The [Department/Office] shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

### 1016.7.2 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

(a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).

(b) Obtain medical attention as appropriate.

(c) Notify a supervisor as soon as practicable.

### 1016.7.3 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

(a) Name and Social Security number of the member exposed

(b) Date and time of the incident

(c) Location of the incident

(d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)

(e) Work being done during exposure

(f) How the incident occurred or was caused

(g) PPE in use at the time of the incident

(h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

### 1016.7.4 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

[Department/Office] members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

(a) Whether the member has been informed of the results of the evaluation.

(b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

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No other information should be requested or accepted by the ECO.

1016.7.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate (8 CCR 5193). Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

(a) Obtaining consent from the individual.

(b) Complying with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.

(c) Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).

(d) Taking reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).

(e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

## 1016.8 POLICY

The Palo Alto Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

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# Smoking and Tobacco Use

## 1018.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Palo Alto Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

## 1018.2 POLICY

The Palo Alto Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

## 1018.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Palo Alto Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

## 1018.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement or any other purpose (Government Code § 7596 et seq.).

### 1018.4.1 NOTICE

The Chief of Police or the authorized designee should ensure that proper signage is posted at each entrance to the Department facility (Labor Code § 6404.5).

## 1018.5 POLICY ISSUE DATE

06-26-16

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# Personnel Complaints

## 1020.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Palo Alto Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

### 1020.1.1 INTERNAL AFFAIRS COMPLAINT INVESTIGATION GUIDELINES

For detailed information about complaint investigation refer to the Department Internal Affairs and Complaint Investigation Guideline Manual.

## 1020.2 POLICY

The Palo Alto Police Department takes seriously all complaints regarding the service provided by the [Department/Office] and the conduct of its members.

The [Department/Office] will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this [department/office] to ensure that the community can report misconduct without concern for reprisal or retaliation.

## 1020.3 ACCEPTANCE

All complaints will be courteously accepted by any [department/office] member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs, or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of the complaining party's statement at the time it is filed with the [Department/Office] (Penal Code § 832.7).

## 1020.4 HATE COMPLAINTS AGAINST PEACE OFFICERS

Internal complaints or complaints from the public shall be accepted and investigated in accordance with this policy where it is alleged that an officer has in the previous seven years, and since 18 years of age, engaged in membership in a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

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## 1020.5 AVAILABILITY OF WRITTEN PROCEDURES

The [Department/Office] shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

## 1020.6 LIMITATIONS ON INVESTIGATIONS

Investigations shall not be undertaken against any officer in the following limited circumstances:

(a) The officer has been placed on a prosecutor's *Brady* list, or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

1. An investigation may be initiated based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland*.

(b) A court finding against an officer in a challenge brought under Penal Code § 745 (California Racial Justice Act of 2020) (Government Code § 3305.6).

1. An investigation may be Initiated based on the underlying acts or omissions which formed the basis of the action brought pursuant to Penal Code § 745 (Government Code § 3305.6).

## 1020.7 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the [Department/ Office], the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

(a) May be required to relinquish any [department/office] badge, identification, assigned weapons and any other [department/office] equipment.

(b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

(c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

## 1020.8 IA PRO SOFTWARE EARLY IDENTIFICATION AND INTERVENTION SYSTEM

### 1020.8.1 PURPOSE AND SCOPE

The Palo Alto Police Department utilizes IA Pro software to track Internal Affairs Investigations and other statistical information. IA Pro is a management tool used to efficiently assign and monitor Internal Affairs investigations and to assist with an Early Identification and Intervention System, (EIIS). Additionally, IA Pro establishes "thresholds" to determine possible training needs of employees. The system is designed to be highly secure at the database level and at the application level with record level screening, feature access screening, mailbox screening, and tracking of users' actions into a background usage log.

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EIIS is intended to be a "positive" approach so that supervisors and managers can address behavior before it results in discipline, lawsuits, injuries or other negative consequences. This systematic, proactive approach reflects the Palo Alto Police Department's commitment to integrity and ethics both internally and externally. EIIS also represents the Police Department's commitment to the welfare of all employees. This policy is intended to assist Police Department supervisors and managers in identifying employees whose performance may require review, training, counseling or other resources that might improve the employee's performance.

### 1020.8.2 PROCEDURES

The Palo Alto Police Department has purchased and installed an IA-PRO software program. The Personnel and Training Unit will coordinate the administration, data entry and review of both the EIIS and the IA-PRO software. Information from IA-PRO and the EIIS system are considered confidential and will not be shared without proper authorization.

Employees will be allowed to review their own personal data by contacting the Personnel and Training Lieutenant to set up an appointment. Information will not be released to an outside source without a valid Pitchess Motion, Court Order, or lawful request. No copies of any IA-PRO screens will be placed in an officer's personnel file. Files will be purged from the IA-PRO system in accordance with the section 1026 of this manual.

### 1020.8.3 EARLY INTERVENTION

The components of the EIIS include Performance Indicators; Identification and Selection; Intervention and Follow-up Monitoring.

### 1020.8.4 PERFORMANCE INDICATORS

Performance indicators represent the category of employee performance activity that the Palo Alto Police Department has selected to monitor. Incidents used as indicators may include but are not limited to:

- Use of Force (Less Lethal and Deadly Force)
- Vehicle Pursuits
- Citizens Complaints
- Commendations, Compliments and Awards (Citizen and Departmental)
- Claims and Civil Suits
- Canine Bites
- Internal Affairs Investigations
- Pitchess Motions
- District Attorney Case Rejections
- Accidental Discharges
- Worker's Compensation Claims

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- Informal Inquiry Reports
- Accidents
- Sick Leave

### 1020.8.5 IDENTIFICATION AND SELECTION

Three (3) incidents in a twelve month period will result in an alert in the IAPRO Records Management System. The Personnel and Training Lieutenant will advise the affected employee's supervisor, manager, and Division Captain/Coordinator. This group will conduct a careful evaluation of any related documentation to determine if the employee's performance is problematic and requires intervention. A non-disciplinary interview with the employee may also be conducted. After a review, it may be determined that an intervention is not appropriate as the behavior did not require such.

### 1020.8.6 INTERVENTION

If intervention is determined to be the course of action, the employee's supervisor will be responsible for developing a plan. The plan will include specific examples of what performance requires improvement as well as the performance expectations. The plan will also identify the activities, support systems, and resources that will be provided to assist the employee. The supervisor will consult with the employee to obtain their input when developing the intervention plan. The supervisor and Division Captain/Coordinator will determine the amount of time that the intervention plan will be in place. The supervisor will provide the Division Captain/Coordinator with monthly updates on the employee's performance. Intervention may include but is not limited to training, counseling, departmental changes or voluntary re-assignments. Training options include, but are not limited to:

- Defensive Tactics
- Legal Updates (Search and Seizure)
- Report Writing
- Anger Management
- Cultural Diversity
- Verbal Judo
- Driver/Pursuit Training
- Physical Fitness Training

Counseling options include, but are not limited to:

- Supervisor Coaching
- Supervisor Counseling
- Peer Counseling

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- EAP Referral
- Referral to the Health Resources Coordinator
- Stress Reduction Training
- Critical Incident Stress Management
- Fitness for Duty

Departmental change options include, but are not limited to:

- Review/Modify Training
- Review/Modify Policy
- Equipment Purchase

Voluntary reassignment options include, but are not limited to:

- Temporary Voluntary Reassignment
- Voluntary Alternate Shift

1020.8.7 POST INTERVENTION MONITORING
Once the intervention plan has been completed, the supervisor and Division Captain/Coordinator will review the employee's performance on a quarterly basis to ensure that the plan has been successful.

## 1020.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Palo Alto Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

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## 1020.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

### 1020.10.1 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Captain of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Division Captain may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Division Captain may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Division Captain shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

### 1020.10.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Captain for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a pre-disciplinary procedural due process hearing (*Skelly*) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Police shall also provide the member with:

(a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.

(b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.

    1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.

    2. If the member elects to respond orally, the presentation may be recorded by the [Department/Office]. Upon request, the member shall be provided with a copy of the recording.

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Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1020.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT
The Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

1020.10.4 NOTICE REQUIREMENTS
The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

## 1020.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

(a) The response is not intended to be an adversarial or formal hearing.

(b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.

(c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.

(d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.

(e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

## 1020.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline (Penal Code § 13510.8).

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### 1020.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding, and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

Additionally, any evidence of a court finding that an officer violated Penal Code § 745 (California Racial Justice Act of 2020) shall not be introduced for any purpose in any administration appeal of a punitive action (Government Code § 3305.6).

### 1020.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief of Police or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Police shall be final.

### 1020.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

### 1020.16 REQUIRED REPORTING TO POST

The Chief of Police or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain officer personnel events, including but not limited to (Penal Code § 13510.9):

(a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.

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1. A POST affidavit-of-separation form shall be executed and maintained by the [Department/Office] and submitted to POST as required by Penal Code § 13510.9 and 11 CCR 1003.

(b) Events that could affect an officer's POST certification, such as:

1. Complaints, charges, or allegations of serious misconduct (as defined by Penal Code § 13510.8).
2. Findings of civilian review boards.
3. Final dispositions of any investigations.
4. Civil judgments or court findings based on conduct, or settlement of a civil claim against an officer or the Palo Alto Police Department based on allegations of conduct by an officer.

The Chief of Police or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness statements, analysis, conclusions) within the applicable timeframe provided in Penal Code § 13510.9.

### 1020.16.1 ADDITIONAL NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

Additional notification shall be made to POST (11 CCR 1207):

(a) If the imposed disciplinary action is pending appeal or other review through an administrative or judicial proceeding:

1. The [Department/Office] shall provide the name of the body conducting the proceeding.
2. The status of the proceeding, if known.

(b) If criminal charges are pending:

1. The name of the court having jurisdiction over the criminal charges against the officer.
2. The status of the criminal case, if known.

### 1020.16.2 NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

The Chief of Police or the authorized designee shall report allegations of serious misconduct by an officer to POST and the report shall include the following (11 CCR 1207):

(a) Name of the [Department/Office]

(b) Administrative case number

(c) Name, current address, and phone number of the complainant, if available

(d) Name, POST ID, current address, and phone number of the involved officer

(e) A summary of the alleged misconduct including:

1. A narrative of the allegations

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2. Date and time of incidents
3. Location of occurrence
4. Any witness information, if available
5. Summary of arrest or indictment of involved officer

(f) A change in employment status of the involved officer (e.g., administrative leave, suspension, termination)

(g) Name and contact information of the assigned investigator

The Chief of Police or the authorized designee shall provide updates of the investigation to POST every 90 days until the final disposition in the method designated by POST (11 CCR 1207).

Upon completion of the investigation, the Chief of Police or the authorized designee shall submit to POST the final disposition of the investigation as well as investigation materials and the officer's service record as provided by 11 CCR 1207.

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# Seat Belts

## 1022.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in [department/office] vehicles (Vehicle Code § 27315.5).

Guidance for transporting persons in custody may be found in the Transporting Persons in Custody and Handcuffing and Restraints policies.

### 1022.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

## 1022.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this [department/office] while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

## 1022.3 INOPERABLE SEAT BELTS

[Department/Office] vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

[Department/Office] vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

## 1022.4 TRANSPORTING CHILDREN

Children under the age of 8 shall be transported in compliance with California’s child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer’s design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-

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side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

### 1022.5 POLICY

It is the policy of the Palo Alto Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

### 1022.6 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

### 1022.7 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

### 1022.8 POLICY ISSUE DATE

Updated: 02-19-16

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# Body Armor

## 1024.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

## 1024.2 POLICY

It is the policy of the Palo Alto Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

## 1024.3 ISSUANCE OF BODY ARMOR

The Administrative Services supervisor shall ensure that body armor is issued to all officers when the officer begins service at the Palo Alto Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administrative Services supervisor shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

### 1024.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

(a) Officers shall only wear agency-approved body armor.

(b) The Department encourages all on-duty officers to wear soft body armor, but it is required for sworn personnel hired after January 1, 1999, whenever they are in uniform.

(c) When officers are assigned to a SWAT operation, stakeout, service of felony arrest warrant(s), or, are serving a search warrant at a location where there is reason to believe a felony suspect may be present, the wearing of a body armor is mandatory. This requirement applies to all officers, whether in a uniform or plain clothes assigned.

(d) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.

(e) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.

(f) Body armor shall be worn when an officer is working in uniform or taking part in Department range training.

(g) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be

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compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

### 1024.3.2 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

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# Personnel Records

### 1026.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

### 1026.2 POLICY

It is the policy of this [department/office] to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

### 1026.3 [DEPARTMENT/OFFICE] FILE

The [department/office] file shall be maintained as a record of a person's employment/appointment with this [department/office]. The [department/office] file should contain, at a minimum:

(a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.

(b) Election of employee benefits.

(c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.

(d) Original performance evaluations. These should be permanently retained.

(e) Discipline records, including copies of sustained personnel complaints (see the Personnel Complaints Policy).

1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least four years (Government Code § 12946).
2. Disciplinary action resulting from a sustained civilian's complaint involving misconduct shall be maintained pursuant to the established records retention schedule and at least 15 years (Penal Code § 832.5).
3. A civilian's complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).

(f) Adverse comments such as supervisor notes or memos may be retained in the [department/office] file after the member has had the opportunity to read and initial the comment (Government Code § 3305).

1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).
2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

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3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).

(g) Commendations and awards.

(h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

### 1026.4 DIVISION FILE

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code § 3305 and Government Code § 3306.

### 1026.5 TRAINING FILE

An individual training file shall be maintained by the Personnel and Training Lieutenant for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

(a) The involved member is responsible for providing the Personnel and Training Lieutenant or immediate supervisor with evidence of completed training/education in a timely manner.

(b) The Personnel and Training Lieutenant or supervisor shall ensure that copies of such training records are placed in the member’s training file.

### 1026.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Personnel and Training Unit in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Personnel and Training manager..

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

(a) Not sustained

(b) Unfounded

(c) ExoneratedInternal Affairs Unit

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Investigation files arising out of sustained civilian's complaints involving misconduct shall be maintained pursuant to the established records retention schedule and for a period of at least 15 years. Investigations that resulted in other than a sustained finding may not be used by the [Department/Office] to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least four years (Government Code § 12946).

Investigation files arising out of a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least five years (Penal Code § 832.5).

## 1026.7 MEDICAL FILE

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

(a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).

(b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.

(c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.

(d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.

(e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

## 1026.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

### 1026.8.1 SEALING OF AN EMPLOYEE'S DISCIPLINARY FILE

For employees of SEIU, refer to Article VI, Section 3 of the Memorandum of Agreement for further information. Employees of PAPOA and PMA may request that disciplinary actions be sealed according to the following schedule:

(a) Written reprimands with no recurrence after one (1) year;

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(b) Disciplinary probation after three (3) years from implementation of such probation if no other disciplinary action has occurred during that period;

(c) Suspensions less than three (3) days without recurrence, after two (2) years.

(d) Suspensions of more than three (3) days but less than six (6) days, after three (3) years;

(e) Suspensions of six (6) days or more, after five (5) years.

A written request for the sealing of disciplinary actions or sustained citizen complaints should be directed to the Personnel and Training Lieutenant.

### 1026.8.2 CITY HUMAN RESOURCES DEPARTMENT

The City Human Resources Department shall be notified in all cases where sealing of disciplinary action is taken. Human Resources Department copies of the disciplinary action will also be sealed in a manner consistent with the Police Department's action.

### 1026.8.3 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member’s personnel records shall be logged in the corresponding file.

### 1026.8.4 RELEASE OF PERSONNEL INFORMATION

Personnel records shall not be disclosed except as allowed by law (Penal Code § 832.7; Evidence Code § 1043) (See also Records Maintenance and Release Policy).

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this [department/office] may be guilty of a misdemeanor (Penal Code § 146e).

The [Department/Office] may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7).

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1026.8.5 RELEASE OF LAW ENFORCEMENT GANG INFORMATION
Information relating to the termination of an officer from this [department/office] for participation in a law enforcement gang shall be disclosed to another law enforcement agency that is conducting a pre-employment background investigation except where specifically prohibited by law (Penal Code § 13670).

1026.8.6 RELEASE OF PEACE OFFICER RECORDS RELATING TO HATE COMPLAINTS
Records relating to an officer for an investigation of a hate complaint described in Penal Code § 13682 with a sustained finding that the officer engaged in membership in a hate group, participated in a hate group activity, or advocacy of public expressions of hate are not confidential and shall be made available for public inspection though a public records request (Penal Code § 13683).

Records disclosed may be redacted as provided in Penal Code § 13683.

## 1026.9 PURGING PROCEDURE

The Personnel and Training Department is responsible for the personnel record purging process. Administrative and Internal Affairs Investigation documents, Citizen Complaints and other related files will be purged according to the City of Palo Alto Record Retention Schedule, provided that the documents are not evidence in any criminal proceeding, related to any claim filed against the City or related to any pending litigation.

Prior to purging personnel or Internal Affairs Investigation documents, authorization must be obtained from the City Attorney's office and the destruction of documents must be approved, in writing, from the City Clerk's office.

Every effort should be made by the Personnel and Training Division to annually purge personnel files, according to the City's Records Retention Schedule.

## 1026.10 MEMBERS' ACCESS TO THEIR PERSONNEL RECORDS

Any member may request access to the member's own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from the member's personnel records shall file a written request to the Chief of Police through the chain of command. The [Department/Office] shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member’s request and the written response from the [Department/Office] shall be retained with the contested item in the member’s corresponding personnel record (Government Code § 3306.5).

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

(a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.

(b) Confidential portions of internal affairs files that have not been sustained against the member.

(c) Criminal investigations involving the member.

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(d) Letters of reference concerning employment/appointment, licensing, or issuance of permits regarding the member.

(e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.

(f) Materials used by the [Department/Office] for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments, or other comments or ratings used for department planning purposes.

(g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

(h) Records relevant to any other pending claim between the [Department/Office] and the member that may be discovered in a judicial proceeding.

## 1026.11 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

(a) During the preparation of each member’s performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.

(b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.

(c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

## 1026.12 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS

Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief of Police or the Internal Affairs Unit supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(3):

- All investigation reports.

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- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and [department/office] policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(8) or other law, the following records (hereinafter qualifying records) shall be made available for public inspection no later than 45 days from the date of a request (Penal Code § 832.7(b)(1)):

(a) Records relating to the report, investigation, or findings of:

1. The discharge of a firearm at another person by an officer.
2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an officer.
3. A sustained finding involving a complaint that alleges unreasonable or excessive force.
4. A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.

(b) Records relating to an incident where a sustained finding was made by the [Department/Office] or oversight agency regarding:

1. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.
3. An officer engaged in conduct including but not limited to verbal statements, writings, online posts, recordings, and gestures involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

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4. An officer made an unlawful arrest or conducted an unlawful search.

Qualifying records will be made available regardless of whether the officer resigns before the [Department/Office] or an oversight agency concludes its investigation (Penal Code § 832.7(b)(3)).

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(4)).

When an investigation involves multiple officers, the [Department/Office] shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(5). However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(5)).

### 1026.12.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of qualifying records made available for release (Penal Code § 832.7(b)(6)):

(a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers

(b) Information that would compromise the anonymity of whistleblowers, complainants, victims, and witnesses

(c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force

(d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(7)).

### 1026.12.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Police, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of qualifying records due to any of the following conditions (Penal Code § 832.7):

(a) Active criminal investigations

1. Disclosure may be delayed 60 days from the date the misconduct or use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.

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2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who engaged in misconduct or used the force.

(b) Filed criminal charges

1. When charges are filed related to an incident in which misconduct occurred or force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.

(c) Administrative investigations

1. Disclosure may be delayed until:

(a) There is a determination from the investigation whether the misconduct or use of force violated law or [department/office] policy, but no longer than 180 days after the date of the [department/office]'s discovery of the misconduct or use of force or allegation of misconduct or use of force

### 1026.12.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of qualifying records, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

(a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.

(b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.

1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:

(a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the [Department/ Office] must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about misconduct or use of force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 7923.000, the [Department/Office] may justify delay by filing an application to seal the basis

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for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(8)).

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# Employee Commendations

## 1030.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

## 1030.2 WHO MAY MAKE COMMENDATIONS

A written commendation may be made by any supervisor regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the individual being commended. Additionally, investigating officers may commend uniformed officers for exceptional assistance in investigative functions, with approval from the investigator's supervisor. Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

## 1030.3 COMMENDABLE ACTIONS

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the Department
- Any action or performance that is above and beyond the typical duties of an employee

## 1030.4 POLICY

The Department is a service-oriented organization. Yet, the nature of the services which we provide to the community often involve intense danger, emotions, stress, and complexity. Therefore, when personnel succeed in providing our services under such circumstances, it is the policy of the Department to recognize them for their efforts. The following guidelines are established to assist supervisors and managers in commending personnel.

Supervisors and managers will use the following classifications and guidelines for issuing commendations to officers.

### 1030.4.1 LEVEL ONE - COMMENDATION OF VALOR

(a) A commendation of valor shall be considered when an employee:

1. Engages in an act of true valor or heroism;
2. Acted above and beyond the call of duty, an action definitely not required by the job; and/or
3. Exposed self to hazards or imminent danger beyond the call of duty without acting recklessly.

(b) Procedure for Commendation of Valor

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1. Endorsed by the Division Captain or Coordinator and the Police Chief;
2. Issued on parchment paper with blue border;
3. Posted on Department bulletin boards;
4. Routed to other Divisions for posting on their bulletin boards;
5. Acknowledged at all watch and Division briefings;
6. Police Chief presents original commendation to employee at special awards ceremony;
7. Commendation signed by Supervisor, Watch Commander, Division Captain or Coordinator, Assistant Police Chief, and Police Chief; and
8. Copy placed in employee's personnel file.

1030.4.2 LEVEL TWO - NOTICE OF MERIT

(a) A notice of merit commendation shall be considered when an employee:

1. Made a correct decision with very limited information in a dangerous or high-risk situation;
2. Conducted tenacious follow-through to successful conclusion in a high-risk, dangerous or extremely complicated case;
3. Was subjected to direct hazard that could not be avoided to complete his or her duties; and/or
4. Was involved in a life-saving or life-threatening situation involving severe hazard to the employee.

(b) Procedure for Notice of Merit

1. Endorsed by the Division Captain or Coordinator and the Police Chief;
2. Issued on bond paper with raised gold City of Palo Alto heading;
3. Posted on Department bulletin boards;
4. Signed by Supervisor, Watch Commander, Division Captain or Coordinator, Assistant Police Chief, and Police Chief;
5. Copy of commendation placed in personnel file;
6. Original presented to employee at their watch or Division briefing by the Division Captain or Coordinator; and
7. Acknowledged at all briefings.

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### 1030.4.3 LEVEL THREE - NOTICE OF ACHIEVEMENT

(a) A notice of achievement commendation shall be considered when an employee:

1. Performs routine work, but completed under unusual or out of the ordinary circumstances;
2. Showed special persistence or initiative;
3. Coordination of varied resources to solve case;
4. Showed creativity with limited information;
5. Showed initiative while off-duty;
6. Excellent observation and follow-up to a successful conclusion;
7. Shows truly professional behavior by employee;
8. Excellent decision in unusual circumstances; and/or
9. A Notice of Achievement shall be issued in all situations involving the saving of a life.

(b) Procedure for Notice of Achievement

1. Endorsed by supervisor and the Watch Commander;
2. Issued on bond paper with flat gold City of Palo Alto heading;
3. Signed by issuing supervisor and Watch Commander;
4. Posted on bulletin board;
5. Copy placed in employee's personnel file;
6. Original notice given to employee at their watch or Division briefing; and
7. Read at briefing.

### 1030.4.4 LEVEL FOUR - NOTICE OF RECOGNITION

(a) A notice of recognition commendation shall be considered when an employee:

1. Performs excellent work, but within job description;
2. Does good investigation and casework resulting in a successful conclusion; and/or
3. Makes a significant improvement in job performance.

(b) Procedure for Notice of Recognition

1. Verbal or written (memo) recognition given directly to employee or given publicly at briefing by supervisor or the Watch Commander;
2. Recognition will not be entered in personnel file; and

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3. Watch Commander will be notified.

### 1030.4.5 OUTSIDE COMMENDATIONS

Employee recognition by citizens via letter, personal contact, or phone calls shall be handled in the following manner:

(a) Division Captain or Coordinator will review all citizen communications concerning their personnel and determine if they should be considered by the Division staff as a formal commendation;

(b) If not considered as a formal commendation, the communication will be given to the appropriate Watch Commander, who will give it to the appropriate employee;

(c) If the communication is written, a copy will also be placed in the employee's personnel file;

(d) Citizen communications will be posted on bulletin boards in each Division or distributed to all employees via e-mail; and

(e) If the communication is considered a formal commendation, the appropriate procedure as outlined above will be followed.

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# Fitness for Duty

## 1032.1 PURPOSE AND SCOPE

All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

## 1032.2 EMPLOYEE RESPONSIBILITIES

(a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.

(b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.

(c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.

(d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

## 1032.3 SUPERVISOR RESPONSIBILITIES

(a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.

(b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.

(c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.

(d) In conjunction with the Watch Commander or employee's available Division Captain, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.

(e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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### 1032.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

### 1032.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Division Captain, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

(a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.

(b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

### 1032.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

(a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Personnel and Training to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.

(b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties (Civil Code § 56.10 (c)(8)(A)). If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)(B)).

(c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.

(d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.

(e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed.

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Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

(f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

## 1032.7 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

## 1032.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Conduct Policy.

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# Sleeping Quarters

## 1033.1 PURPOSE AND SCOPE

The Palo Alto Fire Department has partnered with the Palo Alto Police Department to allow the use of Palo Alto Fire Department Station 8, located at Foothills Park, to be used by Police Department members as sleeping quarters before/after on-duty days with short shift turnarounds.

## 1033.2 POLICY AND PROCEDURE

The following rules shall apply to any person using this station:

- City personnel may use the station as sleeping quarters during short shift-to-shift turnarounds, or court appearances that occur within close proximity to work shifts before/after on-duty days only.
- Use of the station sleeping quarters must be approved by the on-duty Watch Commander.
- City personnel must keep the premises in a clean and serviceable condition after use.
- The facility must be secured and locked after use with the access key returned to its original locaiton at the PD station.
- City personnel may not allow non-city personnel access or use of the facility
- The facility is not be be used as a social gathering location for non-sleeping purposes.
- Department rules of conduct apply to all personnel using this facility.
- Any damage or problem with the facility should be immediately reported to the on-duty Battalion Chief.

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# Meal Periods and Breaks

## 1034.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as possible shall conform to the policy governing all City employees that has been established by the City Manager.

### 1034.1.1 MEAL PERIODS

Sworn employees and dispatchers shall remain on duty subject to call during meal breaks. All other employees are not on call during meal breaks unless directed otherwise by a supervisor.

Uniformed patrol and traffic officers shall request clearance from the Communications Center prior to taking a meal period. Uniformed officers shall take their breaks within the City limits unless on assignment outside of the City. No more than three uniformed officers should be in the same food establishment without prior supervisory approval.

The time spent for the meal period shall not exceed the authorized time allowed.

### 1034.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break, near the mid point, for each four-hour work period. Only one 15 minute break shall be taken during each four hours of duty.

Employees normally assigned to the facility shall remain in the facility for their breaks. This would not prohibit them from taking a break outside the facility if on official business.

Field will take their breaks in the City, subject to call and shall monitor their radios.

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# Lactation Breaks

## 1035.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding reasonable accommodations for lactating members (Labor Code § 1034).

## 1035.2 POLICY

It is the policy of the Palo Alto Police Department to provide, in compliance with federal and state law, reasonable accommodations for lactating members. This includes break time and appropriate facilities to accommodate any member desiring to express breast milk for the member's nursing child (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Labor Code § 1030).

## 1035.3 LACTATION BREAK TIME

A rest period should be permitted each time the member requires a lactation break (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Labor Code § 1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the member's regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Members desiring to take a lactation break shall notify the [dispatcher or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt Department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

## 1035.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view, free from intrusion from coworkers and the public, and otherwise satisfy the requirements of federal and state law (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Labor Code § 1031).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

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Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

## 1035.5 STORAGE OF EXPRESSED MILK

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member's shift ends.

### 1035.5.1 STATE REQUIREMENTS

Members have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Members who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

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# Time Card Procedures

## 1036.1 PURPOSE AND SCOPE

Payroll records are submitted to Administrative Services on a bi-weekly basis for the payment of wages.

### 1036.1.1 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS

Employees are responsible for the accurate and timely submission of payroll records for the payment of wages.

### 1036.1.2 TIME REQUIREMENTS

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Payroll records shall be completed and submitted to Administrative Services no later than 8:00 a.m. on the Wednesday morning before the end of the pay period, unless specified otherwise.

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# Overtime

## 1038.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Agreement (MOA), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked.

### 1038.1.1 DEPARTMENT POLICY

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor authorizes or directs the employee to complete a form for such a period, the employee shall comply.

The individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed 80 hours of compensatory time each annual quarter. At the end of each quarter, employees may be paid for hours accumulated over 80 hours or have the time "rolled over" into their vacation accrual as per each employee's Memorandum of Agreement (MOA).

## 1038.2 TYPES OF OVERTIME

Patrol lieutenants shall have the ultimate responsibility of managing their personnel and staffing levels in the Field Services Division. While there are numerous circumstances that may cause patrol officers to be away from work, patrol sergeants and lieutenants shall follow this policy when evaluating personnel needs and overtime. For the purposes of this policy, the titles of "Patrol Lieutenant" and Watch Commander are synonymous.

### 1038.2.1 UNPLANNED OVERTIME

Examples of unplanned overtime include but are not limited to officers calling in sick, court appearances, personal business leave, bereavement leave, administrative leave or other personal emergencies. The Watch Commander, or supervisor if the Watch Commander is unavailable, is responsible for identifying the overtime needs and authorizing the assignment.

Any unplanned patrol overtime, as defined in the MOA, may be filled by the following procedure:

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(a) The Watch Commander may first request that an on-duty officer/agent/sergeant volunteer to extend their current patrol shift for minimum staffing purposes;

(b) The Watch Commander may request that an officer/agent/sergeant from the next team coming on-duty volunteer to come in early for minimum staffing purposes;

(c) If an officer cannot stay beyond their shift or come in early, the Watch Commander will utilize the unplanned overtime list; and/or

(d) The Watch Commander may choose to order an employee to stay over or come in early to meet minimum staffing needs.

At the conclusion of an unplanned overtime shift, overtime forms shall be reviewed and signed by the on-duty supervisor. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system.

### 1038.2.2 PLANNED OVERTIME

For the purposes of minimum staffing, any planned overtime shall be identified and authorized by the Watch Commander. Planned overtime shall be posted by the 20th of the preceding month. The specific hours to be worked shall be determined by the Watch Commander based on minimum staffing requirements and the team schedule requiring overtime needs. Planned overtime patrol shifts shall not be for less than six (6) hours.

At the conclusion of a planned overtime shift, overtime forms shall be reviewed and signed by the on-duty supervisor. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system.

### 1038.2.3 REPORT WRITING/FOLLOW-UP

It is essential officers complete their reports in a timely manner. Officers are frequently required to stay beyond their designated shift to conduct follow-up and/or complete a police report.

Reports for in-custody cases shall be completed prior to the end of an officer's shift. Officers shall notify the on-duty supervisor of the need to stay beyond their shift. For in-custody cases when the officer is working the next day and that day is a weekend or holiday, the supervisor may direct the officer to complete their follow-up and/or report the following day.

The on-duty supervisor may authorize officers to stay beyond their shift to complete follow-up and/or report writing on non-custodial cases when there are exigent circumstances surrounding the case.

At the conclusion of the overtime worked, overtime forms shall be reviewed and signed by the the on-duty supervisor. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system.

### 1038.2.4 TRAINING OVERTIME PROCEDURE

Officers are often required to attend training as prescribed by POST and/or Department guidelines. All training must have prior approval by the Watch Commander. When authorizing training, Watch

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Commanders shall consider whether the training is state-mandated, Department-mandated, or non-mandatory. The Personnel and Training Unit maintains a detailed list of mandatory and non-mandatory training. Watch Commanders shall give the highest consideration to state-mandated training and may authorize Department-mandated and non-mandatory training after evaluating the affects on staffing, overtime and personal development.

(a) Watch Commanders shall follow the below guidelines when authorizing training:

1. Watch Commanders will make every attempt to adjust officers off the patrol schedule when authorizing training. If adjusting an officer off the schedule requires overtime for minimum staffing purposes, the Watch Commander may choose to authorize overtime for the training day in lieu of adjusting them off the schedule.
2. When officers on the 4/11 patrol schedule attend training on their day off, they shall use training bank hours prior to receiving overtime. Officers shall check with their supervisor or Watch Commander to ensure they only use the allotted amount of training bank hours in each 28-day FLSA cycle.

(b) Officers assigned to the 4/11 patrol schedule will work 182 eleven-hour patrol shifts during the fiscal year for a total of 2002 hours. The number of hours required to complete 26 pay periods, or one year of full-time work, is 2080. The remaining 78 hours will be made up during the year through designated training days and flexible training time. If an employee has not used all of their flexible training hours by the end of the shift year, he or she will be required to make up the difference by working extra/ partial shifts or by using vacation, compensatory or holiday time.

(c) Watch Commanders shall monitor the use of flexible training hours by their employees. Watch Commanders shall:

1. Review all submitted training bank forms to ensure employees do not submit more than 17 hours of training bank usage in any 28-day FLSA cycle.
2. Evaluate the training bank folders on a weekly basis. As needed, Watch Commanders will work with employees to schedule extra patrol shifts and/or additional training to ensure they meet their required flexible training hours.

### 1038.2.5 FIELD TRAINING PROGRAM

The lieutenant in charge of the Field Training Program may authorize overtime for the Field Training Officers and other personnel if additional training is necessary for the professional development of the officers in the Field Training Program.

### 1038.2.6 COURT OVERTIME

Officers are frequently required to attend court. Officers should notify the Watch Commander or supervisor of the court appearance and submit the overtime form to the Watch Commander for

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authorization. Sworn officers appearing in court for the State of California will be compensated per the MOA.

1038.2.7 MAJOR INCIDENT OVERTIME
The Police Chief, Assistant Police Chief, Division Captains or Coordinators and/or Watch Commanders may authorize overtime in the event of a major incident. On-duty supervisors may authorize overtime in the event of exigent circumstances when the above-authorized people are not available.

1038.2.8 SPECIAL EVENT OVERTIME
The Watch Commander and/or Special Events supervisor may authorize overtime for special events. On-duty supervisors may authorize overtime in the event of exigent circumstances when the above-authorized people are not available.

1038.2.9 COMMUNICATIONS OVERTIME
Qualified officers working overtime in Communications shall follow the overtime procedures contained within the Communications Overtime Policy Section §1.24. The Communications Manager or his or her designee may authorize overtime in Communications.

1038.2.10 SPECIALIZED TEAM MEETINGS
There are approximately fifteen part-time specialty teams within the Department. The Lieutenants of each specialty team may authorize overtime for meetings. The Lieutenants should ensure the meetings are necessary and relevant and should follow the same guidelines as described in Policy Manual §1038.24.

1038.2.11 MISCELLANEOUS OVERTIME
Any overtime needs not covered under any of the previous sections may be authorized by the Watch Commander.

## 1038.3 REQUEST FOR OVERTIME PAYMENT FORMS

Employees shall submit all overtime forms for verification by their immediate supervisor or the on-duty supervisor. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system. Failure to submit an overtime form in a timely manner may result in a denial of compensation.

(a) **EMPLOYEE RESPONSIBILITY** - Employees shall complete the overtime forms immediately after working the overtime and turn them in to the on-duty supervisor for approval. Employees submitting overtime forms for on-call pay when off-duty shall submit the forms to the on-duty supervisor on the first day after returning for work. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system.

(b) **SUPERVISOR RESPONSIBILITY** - The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request. The Watch

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Commander will eventually view the electronic entry of the overtime hours on the SAP system.

(c) **DIVISION Captain/COORDINATOR RESPONSIBILITY** - The Division Captain or Coordinator, after approving payment, will then forward the form to the Police Chief for review.

## 1038.4 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Agreement provides that minimum times will be paid (e.g. two hour-minimum for court, four hour-minimum for outside overtime). The supervisor will enter the actual time worked.

### 1038.4.1 ACCOUNTING FOR PORTIONS OF AN HOUR

Partial hours of overtime worked are to be accounted for in quarters of an hour. One quarter is equivalent to fifteen minutes as indicated by the following chart.

TIME WORKEDINDICATE ON CARD

1- 15 minutes 1/4 hour

16- 30 minutes 1/2 hour

31- 45 minutes 3/4 hour

46- 60 minutes 1 hour

### 1038.4.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other officer, the Watch Commander or other approving supervisor may require each employee to include the reason for the variation on the back of the overtime form.

## 1038.5 INVESTIGATIVE SERVICES DIVISION OVERTIME

All overtime, unless during an emergency, will be pre-approved by a sergeant in the Investigative Services Division.

### 1038.5.1 AUTHORIZED INVESTIGATIVE SERVICES DIVISION OVERTIME

As a matter of policy, overtime will be kept to a minimum. Overtime will only be considered in the following circumstances:

(a) The crime being investigated has life-threatening possibilities if follow-up is not immediately conducted;

(b) Case completion/preparation is required to meet a court-mandated schedule;

(c) When requested by patrol and approved by an Investigative Services Division sergeant.

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### 1038.5.2 AFTER-HOURS INVESTIGATIVE SERVICES DIVISION OVERTIME

When an Investigative Services Division sergeant is contacted during non-business hours and his or her personnel are requested, the following guidelines should be followed:

(a) If the request involves a property crime, the following circumstances must exist for the Investigative Services Division sergeant to call in off-duty detectives:

1. A suspect is in custody; or
2. The location of a suspect is known, the location is in another jurisdiction, and the suspect needs to be arrested immediately.

The Investigative Services Division sergeant will assign two detectives to respond and assess what needs to be accomplished. If additional resources are required, the detectives will obtain authorization from their sergeant.

If the request involves a sexual assault or robbery, the Investigative Services Division sergeant will assign two detectives. If the request involves a homicide, the Investigative Services Division sergeant will assign as many detectives as he or she feels are required.

The Investigative Services Division Captain will be apprised of all sexual assaults, robberies and homicides.

### 1038.5.3 MISCELLANEOUS INVESTIGATIVE SERVICES DIVISION OVERTIME

(a) Overtime may be required to complete an on-going investigation where evidence or property could be lost if not immediately located. Overtime also may be required in order to apprehend a suspect in a timely fashion. In these situations, the overtime should be authorized if the Investigative Services Division sergeant believes the property recovered or the evidence sought is of great enough value to justify the overtime expenditure.

(b) All Department-mandated training will be completed during scheduled duty time. Overtime will NOT be used for training unless approved in advance by an Investigative Services Division sergeant or the Investigative Services Division Captain.

(c) Any overtime worked by Investigative Services Division personnel will not exceed the 16-hour rule without approval of a supervisor. This includes overtime worked in other Divisions. Additionally, a detective should inform his or her Investigative Services Division sergeant that they are scheduled to work overtime in another Division.

(d) An Investigative Services Division sergeant shall approve any other situation that requires overtime prior to its use.

Qualified Investigative Services Division officers working overtime in Communications shall follow the Communications Overtime Policy §1.24. The Communications Manager or his or her designee may authorize overtime in Communications.

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## 1038.6 COMMUNICATIONS OVERTIME POLICY

The full staffing of Communications is essential to provide for the safety of the public. Communications will schedule overtime to provide for full staffing. If the overtime cannot be filled on a voluntary basis, employees will be selected to work mandatory overtime. One Communications lead dispatcher is the overtime scheduler. Overtime hours will be reflected in red on the Calendar Flow Chart.

### 1038.6.1 COMMUNICATIONS PERSONNEL OVERTIME SIGN-UPS

The Calendar Flow Chart will include open shifts that must be filled by overtime due to approved vacations, sick leave, personal leave, and other time off.

Requests for approval of vacations, sick leave, personal leave, and other time off will be forwarded to the Communications lead dispatcher handling scheduling responsibilities via e-mail correspondence.

To sign up for an overtime shift, the employee will place his or her name and the hours of the shift to be worked on the appropriate line next to the overtime reflected on the Calendar Flow Chart. At that point, those hours of the shift are considered filled.

The lead dispatcher or a Communications manager will review the signups for overtime at least weekly to ensure adequate staffing levels are met.

Seniority "bumps" will be permitted up to one week prior to the overtime date. To "bump" a less-senior employee, the employee will write his or her name on the Flow Chart and notify the employee who has been bumped of the canceled overtime.

Any dispatcher or lead dispatcher who wishes to sign up for a full shift may "bump" any overtime by an employee who has signed up for a partial shift.

Any hours that are normally scheduled to include "night time differential" (1800-0800 hours) that are not worked due to a shift slide to eliminate overtime hours shall still be paid to the employee who would have received the night time differential had the employee not slid his or her shift.

The amount of hours worked during a shift slide that eliminate overtime shall be credited on the Overtime Accrual List for the overtime hours the employee eliminated by the shift slide, even when no additional hours are worked than were originally scheduled.

Sign-ups for overtime may not be canceled less than 10 days from the date of the overtime. With the exception of exigent circumstances, it is the responsibility of the employee to fill any overtime hours the employee cancels within this 10-day frame.

### 1038.6.2 PER DIEM OVERTIME SIGN-UPS

Overtime is considered available for sign-up by per diem personnel on a "first come, first served" basis. Sworn Department personnel working as Communications per diem dispatchers are subject to being "bumped" by dispatchers or lead dispatchers up to two weeks prior to the date of the overtime. The per diem seniority recall list shall prevail for overtime needed within an immediate time frame.

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### 1038.6.3 MANDATORY OVERTIME

Every effort shall be made to fill overtime shifts by providing sufficient notifications for voluntary sign-ups. In the event that overtime is not been filled on a voluntary basis, a Communications manager, on-duty lead dispatcher, or the senior on-duty dispatcher mandate Communications personnel for an overtime assignment to ensure adequate staffing levels have been met.

Mandatory overtime shall be ordered for any overtime not scheduled one week prior to the shift and will be assigned based on the following factors:

(a) Usage of overtime during the previous 30-day period;

(b) Efficiency in extending shifts of on-duty dispatchers;

(c) Whether the shift is full or partial;

(d) Hardship or other extenuating circumstances;

(e) Pre-planned time off;

(f) Separation between shifts (10-hour minimum).

### 1038.6.4 NOTIFICATION

(a) All dispatchers shall maintain a telephone where the dispatcher may be notified in an emergency or for the purpose of assignment of mandatory overtime or cancellation of approved time off. It is the responsibility of the dispatcher to provide means of notification in the event of an emergency. Employees changing their residence addresses and/or telephone numbers shall immediately notify the lead dispatcher or the Communications manager of the changes in writing, in addition to notifying the Personnel and Training Unit as provided in Policy Manual §1011.

(b) Dispatchers who maintain voice mail, pager, or home e-mail services may provide this information to Communications management in the event of an emergency or for the notification of mandatory overtime or cancellation of approved time off. The responsibility to be reached in the event of an emergency or for mandatory overtime or cancellation of approved time off includes the responsibility of responding to telephone messages, pages, and e-mails.

(c) A dispatcher who is notified in an emergency or for the purpose of assignment of mandatory overtime or cancellation of approved time off shall respond to the on-duty lead dispatcher upon being notified. Failure to respond in a timely manner may result in disciplinary action.

(d) The Communications manager, lead dispatcher, on-duty senior dispatcher assigning mandatory overtime will contact the employees required to perform mandatory overtime by notification using the following means:

1. Telephone;

    (a) If no response within a reasonable time, pager; and/or

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(b) If no response within a reasonable time, telephone message machine or voice mail; and/or

(c) If no response within a reasonable time, e-mail.

Once the Communications manager, lead dispatcher, or on-duty senior dispatcher assigning mandatory overtime filled the overtime, he or she will update the Calendar Flow Chart with the assigned staffing.

Repeated failure of an employee to respond to efforts to notify the employee in the event of an emergency or for mandatory overtime or cancellation of approved time off may result in disciplinary action.

### 1038.6.5 MONTHLY OVERTIME LOG

The monthly Overtime Log shall be maintained by the lead dispatcher handling scheduling responsibilities, or in his or her absence, a Communications manager, in the Flow Chart Binder and will indicate the cumulative total of overtime worked from the previous month up to the current date for each employee.

(a) The employee who has worked the least amount of overtime (regardless of rank) shall be mandated to work the overtime. That employee's availability due to scheduling constraints will be considered.

(b) In the event that the overtime accrual for the Communications employees who have worked the least amount of overtime is the same or the Overtime Accrual Log does not reflect the overtime hours of previous month(s), the employee with the least amount of seniority shall be mandated to work the overtime.

### 1038.6.6 OVERTIME MEALS

The Palo Alto Communications Policies and Procedures Manual §1.46 provides for overtime meals and states:

The Communications Unit will provide meals to employees in an emergency situation involving real or potential loss of service or personal danger:

(a) When an employee is called back and is on-duty for a period of three consecutive hours, and thereafter at intervals of five hours, but not more than six hours, until the continuous overtime assignment ends.

(b) When an employee is held over on-duty so that his or her overtime assignment extends two hours after shift end, and thereafter at intervals of five hours, but not more than six hours, until the continuous overtime assignment ends.

(c) When an employee is called out two hours or more before a regularly scheduled shift. The employee will be entitled to two meals, the second meal to be consumed on the employee's own time.

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(d) When recalled two hours or less after the end of a regular shift, unless assigned to standby.

Communications will provide meals to employees in non-emergency situations where the assignment extends two hours after the end of the regular or overtime shift and at five-hour intervals thereafter. This policy only applies when an employee is held over, either on a voluntary or mandated basis, on-duty beyond a scheduled regular or overtime shift. If, due to working conditions, Communications is unable to provide a meal to which an employee is entitled, he or she has the option of receiving one hour of overtime compensation instead.

### 1038.7 ANIMAL SERVICES DIVISION OVERTIME POLICY

Either the Animal Services Division Superintendent or the Animal Services Division Supervisor must approve all overtime worked by any Animal Services Division employee.

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# Outside Employment

## 1040.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy and the City of Palo Alto Merit System Rules and Regulations § 1302.

Unless otherwise indicated, when a person accepts employment with the City of Palo Alto, it is assumed that the City of Palo Alto employment is to be his/her primary job. If the person undertakes outside employment, such work is assumed to be secondary in importance and the employee is subject to recall back to the City of Palo Alto at any time at the discretion of the Chief of Police.

### 1040.1.1 DEFINITIONS

**Outside Employment** - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

**Outside Overtime** - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

## 1040.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Application which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Chief of Police for consideration.

If approved, the employee will be provided with a copy of the approved permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid through the end of the fiscal year in which the permit is approved. The permit must be renewed during July of each year and at any time when there is a change in the status or time demands of the outside employment. Any employee seeking to renew a permit shall submit a new Outside Employment Application during July of each year.

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Any violation of the conditions of the approved outside employment permit will result in revoction of the permit.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

The City of Palo Alto will not be responsible for Worker's Compensation related to injuries or illnesses sustained in the course of outside employment. Such injuries or illnesses may require medical restriction of City employment and/or revocation of outside employment approval.

1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT
If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS
Any outside employment permit may be revoked or suspended under the following circumstances:

(a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit

(b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline

(c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked

(d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

## 1040.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

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(a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage

(b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department

(c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department

(d) Involves time demands that would render performance of the employee's duties for this department less efficient

### 1040.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position, without expressed written consent.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

(a) The applicant will be required to enter into an indemnification agreement prior to approval.

(b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.

(c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:

1. The officer(s) shall be subject to the rules and regulations of this department.
2. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
3. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
4. Outside security services shall not be subject to the collective bargaining process.

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5. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

1040.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE
Any employee making an arrest or taking other official police action while working in an approved outside overtime/employment assignment shall be required to complete all related reports in a timely manner pursuant to department policy, unless otherwise approved by the Chief of Police or his/her designee. Time spent on the completion of such reports shall be considered incidental to the outside overtime/employment assignment.

## 1040.4 DEPARTMENT RESOURCES
Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment unless expressly approved by the Chief of Police or his/her designee. Officers are prohibited from accessing official records or databases of this department or other agencies through the use of the employee's position with this department.

1040.4.1 REVIEW OF FINANCIAL RECORDS
Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to § 1040.2.2(c) of this policy.

## 1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS
If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

## 1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY
Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or

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not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

(a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the City's professional medical advisors.

(b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.

(c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Palo Alto Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

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# On Duty Injuries

## 1042.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for the reporting of on-duty injuries, occupational illnesses, or deaths to Risk Management, to ensure proper medical attention is received, and document the circumstances of the incident.

## 1042.2 WORKER'S COMPENSATION FUND REPORTS

### 1042.2.1 INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical care must be reported to the Risk Management Office and the Personnel and Training Unit Lieutenant. A claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

### 1042.2.2 ACCIDENT DEFINED

Labor Code § 5400 makes failure to comply with the 24-hour reporting procedure a misdemeanor. Additionally, disciplinary action may be taken for an employee's failure to comply with this procedure.

### 1042.2.3 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor.

Any employee sustaining a work-related injury or illness that requires relief from duty is also required to comply with departmental policies and directives relating to the duty to periodically call in during absences, as well as the duty to notify the Department of any change in condition or anticipated duration of the absence.

When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Limited-service duty may be available for the employees whose injuries prevent resumption of regular duties.

An injured employee or employee who has suffered a work-related illness shall report as soon as practical to his/her immediate supervisor the medical findings concerning the injury and the extent and duration of any work restrictions if they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

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### 1042.2.4 SUPERVISOR'S RESPONSIBILITY

A supervisor learning of any work-related injury or accident shall promptly prepare the appropriate forms contained in the injury packets located in the sergeant's offices. The packets include the following:

(a) A summary of the procedure for on-duty injuries;

(b) State of California, Employee's Claim for Worker's Compensation Benefits DWC-1 Form;

(c) Authorization to Release Medical Records and Information Form;

(d) State of California, Employer's Report of Occupational Injury or Illness Form 5020;

(e) Sample of an injury documentation/investigation;

(f) City of Palo Alto Worker's Compensation Procedures memo;

(g) Pre-designated Physician Form (Post-01/01/05 injuries are subject to the employer's managed network).

These forms shall be completed and forwarded to the Personnel and Training Unit Lieutenant within 24 hours of the notification of the injury.

### 1042.2.5 DIVISION CAPTAIN RESPONSIBILITY

The Personnel and Training Unit Lieutenant shall review and forward copies of the report to the City's Risk Manager. A copy of the report shall be retained in the employee's medical file.

## 1042.3 INJURY NOT REQUIRING MEDICAL ATTENTION

Those injuries and illnesses not requiring medical attention shall be recorded on a Supervisor's Report of Injury form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

## 1042.4 SETTLEMENT OF INJURY CLAIMS

Employees that sustain minor to moderate injuries during business hours (between Monday and Friday, 0730-1700 hours) should be taken to Workforce Medical Center, 201 Arch Street, Redwood City (650) 556-9420.

Employees who sustain injuries of a more serious nature, or any injuries that require medical attention after hours, should be taken to the Stanford Hospital Emergency Room for treatment.

An employee may choose to be treated by their pre-designated physician if the employee has a pre-designated physician form on file prior to the date of the injury. However, prior to receiving treatment, the employee must notify their immediate supervisor or the Personnel and Training Unit.

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## 1042.5 RETURNING TO WORK

When the employee is cleared to return to work by their treating physician, the employee must provide the Personnel and Training Unit Lieutenant with a note signed by the physician. The note should indicate if the employee can return to full duty or modified duty and if any limitations exist.

If an employee returns to work in a "modified duty" capacity, he or she shall report to the Personnel and Training Unit Lieutenant. The employee may then be re-assigned to another Division depending on their work restrictions and the needs of the Department.

While on modified duty, an employee will not take any enforcement action or engage in activity that might result in a re-injury. While on modified duty, the employee will attend all appointments related to their injury and take any prescribed medications. Every 60 days, the employee on modified duty shall submit an updated note from their physician describing their status to the Personnel and Training Unit Lieutenant.

There will not be any permanent modified duty assignments within the Department.

## 1042.6 SETTLEMENT OF INJURY CLAIMS

Occasionally, an employee's work-related injury results from the negligent or wrongful acts of another, for which the employee, the City, and/or other insurers are entitled to recover civilly. To ensure that the City's interests are protected and that the employee has the benefit of the City's experience in these matters, the following procedure is to be followed:

### 1042.6.1 EMPLOYEE TO REPORT INITIAL CONTACTS

When an employee sustains work-related injuries caused by another person, and is then approached by such person or an agent, insurance company or attorney, and offered a settlement of claims, that employee shall take no action other than to make a written report of this contact to his or her supervisor as soon as possible.

### 1042.6.2 NO SETTLEMENT WITHOUT PRIOR APPROVAL

In no case shall the employee accept a settlement without receiving prior approval from the Police Chief. It must first be determined that the offered settlement will not affect any claim the City of Palo Alto may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury. The objective of this policy is to protect the City's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

## 1042.7 DEPARTMENTAL RESPONSE TO SERIOUS INJURY OR DEATH OF A MEMBER

The purpose of this policy is to outline the Department's response to the serious injury or death of a Department member, retiree or other law enforcement member. Notification responsibility, assignments and funeral protocol is included.

The Department recognizes that this is a very difficult time for the family and the Department as a whole. Every effort will be made to assist the family as much as possible. The extent of our participation will depend on the wishes of the family and the resources available.

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### 1042.7.1 DEFINITIONS

**Active Member Injury, Illness or Death in the Line-of-Duty**: A member of the Department who is actively employed or in an authorized volunteer service, who suffers a serious or fatal injury or illness while taking any action that the member is authorized or obligated to perform by law, rule, regulation, or condition of employment or service.

**Active Member Injury, Illness, or Death not in the Line-of-Duty**: A member of the Department who is actively employed or in an authorized volunteer service, who suffers a serious or fatal illness while off-duty and which is non-police related.

**Retired Member Death**: The death of a retired member who is in good standing and fully separated through retirement from the Department.

(a) A retiree is defined as:

1. Any sworn or non-sworn member who resigns having completed at least 20 years of service, regardless of age; oR
2. Any sworn or non-sworn member who resigns and who is eligible to begin receiving pension benefits; or
3. Any former sworn or non-sworn member who is receiving from the City disabilities pension.

### 1042.7.2 SERIOUS INJURY OR DEATH NOTIFICATION WITHIN THE DEPARTMENT

(a) When a member is seriously injured, killed or dies while working, the Watch Commander will:

1. Notify immediately notify the Chief of Police and Command Staff;
2. Notify members of the Family Support Team as identified by the Chief of Police,

(b) When a member is seriously injured, killed or dies while off duty, and the death is not duty related, the Watch Commander will:

1. Immediately notify the Chief of Police and members of the Command Staff;
2. Notify members of the Family Support Team as identified by the Chief of Police.

(c) When a member is killed or dies whether on or off duty, the Division Captain:

1. Will be responsible for having the member's police issued equipment and personal belongings collected and inventoried;
2. Will insure that the member's personal belongings are delivered to the spouse, significant other, parents, nearest responsible relative or executor of the estate.

When a member is killed or dies while working, the Technical Services Coordinator, with the Chief's approval, will send a Teletype concerning the incident to the other law enforcement agencies. When funeral arrangements are set, this information will also be transmitted.

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### 1042.7.3 NOTIFICATION OF FAMILY MEMBERS

The following are the general procedures regarding notification of deaths and life-threatening injuries. In all situations where a member of the Department is seriously or fatally injured, the family members and their needs should be given prime consideration.

The name of the seriously or fatally injured member shall not be released to the media before the family members are notified.

If the family members live outside the area, and having a Palo Alto Police representative make the personal notification would cause an unreasonable delay, the ranking officer on duty shall request a prompt and personal notification from the jurisdictional law enforcement agency in the area in which the family lives.

If the Department is requested by another law enforcement agency to perform a personal notification of a serious injury or death of one of their members to a family member living in Palo Alto, the same courtesy and procedures shall be afforded to the agency as that which would be done for our own Department.

### 1042.7.4 NOTIFICATION TEAM COMPOSITION AND RESPONSIBILITIES

The notification team should be made up of the Chief of Police, the employee's immediate supervisor, and an officer known by the injured employee's family (if possible). Consideration should be given to arranging for childcare in the event the spouse or significant other will be going to the hospital.

Employees outside the official notification team are prohibited from making contact with family members prior to official notification. Employees should caution their family members against contacting the family members prior to the official notification.

Prior to arrival of the notification team, accurate and up-to-date information should be secured. The notification team's goal should be to make a timely notification before Family members learn through other means.

### 1042.7.5 RESPONSE TO A LIFE THREATENING INJURY, ILLNESS OR DEATH SUFFERED IN THE LINE OF DUTY

When a member of the Department suffers a life threatening injury or illness or is killed in the line of duty, the following will be provided for the Family members:

(a) Personal notification of family members residing nearby;

(b) Notification by local jurisdiction if the family member lives outside the area;

(c) Transportation to the medical facility or other location for local family members;

(d) Security for the family member and/or their home if deemed necessary by the Chief of Police;

(e) Family Support Team member's available 24 hours per day;

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(f) Any other requests for additional support for the family (transportation, lodging, financial) must be made through the Family Support Team and approved by the Chief;

(g) These supportive measures will be provided from the time of the serious injury until the member's life is no longer threatened, or, in the event of death, 24 hours after the committal services;

(h) The above-listed supportive measures will also apply to situations where the injured employee is hospitalized outside the area. The Chief of Police will determine what supportive measures are appropriate;

(i) In the event an employee is killed in the line of duty outside the area, the Family Support Team member or their designee will go to the location where the employee was killed to handle the logistical details and provide an escort for the remains.

### 1042.7.6 POLICE FAMILY SUPPORT TEAM

The Police Family Support Team will consist of the following personnel:

(a) Executive Liaison - The Captain of the Division the member was assigned to;

(b) Family Liaison Officer - an officer designated by the family and agreed upon by the Department, who coordinates the wishes of the family and the activities of the family Support Team, This includes making arrangements for travel and lodging for family members. The Chief of Police must first approve any financial commitment for these expenses;

(c) Benefits Coordinator - The Personnel and Training Lieutenant will be responsible for coordinating all benefits for which the member and his/her family are eligible;

(d) Press Information Officer - The Chief of Police will designate the PIO. The PIO will coordinate all press releases and arrange for media coverage of any funeral services;

(e) Traffic Coordinator - The Lieutenant in charge of the Traffic Division will be responsible for coordinating and conducting any and all movements of vehicles involved in a funeral operation. This includes arranging for traffic control at intersections;

(f) Honor Guard Coordinator - A Department representative will be in charge of either assembling an Honor Guard comprised of officers closest to the deceased or request for assistance from an outside agency.

The Police Family Support Team will be activated at the direction of the Chief of Police. Upon activation, a notice will be posted on the bulletin board listing the names of the Team and their responsibilities. The Police Family Support Team will also provide the Department with any needed communication regarding the funeral operation. When activated, the members of the Police Family Support Team will contact the Executive Liaison on a daily basis to provide an update.

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### 1042.7.7 FULL DEPARTMENT HONORS

Full Departmental Honors are the rendering of honors at the funeral of a member of the Department who died in the line-of-duty. The following Full Departmental Honors will be rendered, upon approval of the family:

(a) Request will be made to the City Manager for the City of Palo Alto flag to be flown at half-staff for three (3) consecutive days from the day of death, in accordance with the City "Funeral Attendance and Flag Half-Staffing Policy";

(b) All members of the Department with badges will place a black sash or ribbon on it. The sash is to be worn horizontally across the badge;

(c) An Honor Guard representative may be assigned to the funeral parlor during viewing times at the discretion of the Chief of Police;

(d) A United States burial flag will be provided to drape the casket;

(e) Colors will be conducted by the Honor Guard at the committal service;

(f) Flag folding ceremonies will be conducted by the Honor Guard at the committal service;

(g) The flag will be presented to the family by the Chief of Police or his/her designate.

(h) A 21-gun salute will be performed by the Honor Guard at the committal service;

(i) "Taps" will be played at the committal service;

(j) A bagpiper may play at the committal service;

(k) A police motorcycle escort will be provided for the funeral service.

### 1042.7.8 DEPARTMENT REPRESENTATIVE AT OUT OF TOWN FUNERAL SERVICES FOR DEPARTMENT MEMBER WHO WAS KILLED IN THE LINE OF DUTY

With the approval of the Chief of Police, Department personnel will attend an out of town funeral of a Department member killed in the line of duty at the Department's expense, provided that no overtime or backfilling with overtime occurs (in accordance with the City "Funeral Attendance and Flag Half-Staffing Policy"). The distance to be traveled will be taken into consideration.

### 1042.7.9 DEMEANOR OF OFFICERS AT MEMORIAL, FUNERAL AND COMMITTAL SERVICES

(a) Memorial and Funeral Services:

1. The word chapel is interpreted to include the church, funeral home, or other inside location where a memorial or funeral service is held, other than the committal service;

2. The word casket is interpreted to include any receptacle containing the remains of the deceased, including cremated remains;

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3. The words cover and uncover are interpreted to be the placing of a hat and the removing of a hat from one's head;

(b) When inside the chapel, the following will apply:

1. Honor Guard members posted at the casket will remain covered;
2. All other personnel with hats will remain uncovered and will carry the hat under the non-gun side when not seated;
3. When outside the chapel, all personnel wearing hats will remain covered at all times.

(c) Committal Services - At a law enforcement funeral, persons in uniform will come to ATTENTION and will execute a hand salute at the command, PRESENT ARMS, which will be given:

1. Any time the flag is being moved;
2. When the casket is moved from the site of the funeral/memorial service to the hearse, or from the hearse to the site of the committal service;
3. During the firing of volleys;
4. While "Taps" is being played.

(d) At a law enforcement funeral, law enforcement personnel not in uniform will place their right hand over the heart at the command, PRESENT ARMS, which will be given:

1. Any time the flag is being moved;
2. During the firing of volleys;
3. While "Taps" is being played.

(e) The hand salute or the right hand over the heart will be held until the command, ORDER ARMS, is given.

(f) In accordance with military custom, hats will not be removed outside for prayers, but all personnel will bow their heads, as a sign of respect.

(g) Uniformed personnel, when not at ATTENTION, will remain in the position of PARADE REST during the outside committal service.

### 1042.7.10 RESPONSE TO A LIFE THREATENING INJURY, ILLNESS OR DEATH NOT SUFFERED IN THE LINE OF DUTY

When a member of the Department suffers a life threatening injury or illness or is killed NOT in the line of duty, some or all of the above supportive measures may be provided at the request of the family and with the approval of the Chief of Police.

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### 1042.7.11 RESPONSE TO THE DEATH OF A RETIREE

In the event of the death of a retiree, where the family has requested the rendering of Departmental Honors for a local funeral service, the Family Support Team will be activated to fulfill such a request with the approval of the Chief of Police.

### 1042.7.12 DEPARTMENTAL HONORS

Departmental Honors are the rendering of the honors at the funeral of a member of the Department where the cause of death was not in the course or scope of the member's employment. Departmental Honors are to be used at the funeral of a retired member of the Department. The following Departmental Honors will be rendered, upon request of the family:

(a) Active Member:

1. All members of the Department with badges will place a black sash or ribbon on it. The sash is to be worn horizontally across the badge from the time of death until after the funeral, unless deemed otherwise by the Chief of Police;
2. A United States flag will be provided to drape the casket;
3. Flag folding ceremonies will be conducted by the Honor Guard;
4. The flag will be presented to the family by the Chief of Police or his/her designate;
5. A police motorcycle escort may be provided for the funeral service at the direction of the Chief of Police.

(b) Retired Member:

1. All members of the Department with badges may place a black sash or ribbon on it. The sash is to be worn horizontally across the badge from the time of death until after the funeral, unless deemed otherwise by the Chief of Police;
2. An Honor Guard representative will be assigned to the funeral parlor during all viewing times at the discretion of the Chief of Police;
3. A United States burial flag will be provided to drape the casket;
4. Colors will be conducted by the Honor Guard at the committal service at the discretion of the Chief of Police;
5. Flag folding ceremonies will be conducted by the Honor Guard;
6. The flag will be presented to the family by the Chief of Police or his/her designate;
7. "Taps" may be played at the committal service;
8. A bagpiper may play at the committal service;
9. A police motorcycle escort may be provided for the funeral service.

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### 1042.7.13 CEREMONIAL HONORS

Ceremonial Honors are the rendering of honors on, but not limited to, the funeral of a person the Department wishes to honor. Ceremonial Honors may include some or all of the honors rendered as part of the Full Departmental honors or Departmental Honors. All Ceremonial Honors must have prior approval of the Chief of Police.

### 1042.7.14 DEATH OF ANOTHER LAW ENFORCEMENT AGENCY MEMBER

A member of an outside agency, which is recognized as a public law enforcement agency, who dies while taking any action that the member is authorized or obligated to perform by law, rule, regulation, or condition of employment or service, whether on or off duty within the City of Palo Alto.

(a) The on-duty Watch Commander will immediately notify Palo Alto's Police Chief;

(b) The Palo Alto Police Chief will be responsible for contacting the involved employee's law enforcement agency in order to make official notification;

(c) The Palo Alto Police Chief will then provide direction to our Department's staff based on the request of the other Chief.

### 1042.7.15 DEPARTMENTAL REPRESENTATION AT FUNERALS OF OTHER LAW ENFORCEMENT AGENCY MEMBERS (LINE OF DUTY DEATHS)

A supervisory officer will be designated by the Executive Liaison, as the Officer-in-Charge of the Department's official representation at the funeral.

(a) The dress of the day will be as designated by the hosting agency;

(b) The Traffic Lieutenant may send escort motorcycles subject to staffing considerations at the time of the funeral;

(c) The duties of the official representation team will be considered an on-duty assignment;

(d) The make-up of the Department's official representation will be influenced by the distance to be traveled and staffing considerations;

(e) This guideline does not prohibit attendance at other law enforcement agency funerals by those officers who wish to travel by private transportation, off-duty, nor does it prohibit the use of police vehicles, if approved by the Chief of Police.

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# Personal Appearance Standards

## 1044.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

## 1044.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

### 1044.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, hair must be no longer than the top edge of the uniform collar while assuming a normal stance. Hair may be worn up in a braid or ponytail.

To maintain a professional image, all employees are prohibited from wearing hair colors other than natural hair colors.

### 1044.2.2 MUSTACHES

A short and neatly trimmed mustache may be worn. Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip.

### 1044.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the ear lobe and shall be trimmed and neat.

### 1044.2.4 FACIAL HAIR

A short and neatly trimmed beard or goatee, worn with a mustache, is allowed if a seal can be verified with a Department-issued gas mask. Facial hair may not exceed 1/4" in length.

## 1044.3 TATTOOS

Definition of "tattoo": The act or practice of marking the skin with indelible designs, forms, figures, art, etc., by making punctures in the skin and inserting pigment.

### 1044.3.1 POLICY

All personnel regardless of hire date, while on duty or representing the Department in any official capacity, must comply with the following regulations. These regulations apply to all current tattoos and all new (future) tattoos. While on duty or representing the Department in any official capacity, all personnel may display tattoos according to the following regulations:

(a) All personnel who wish to display visible tattoo(s) shall have their tattoo(s) evaluated by the Chief of Police or authorized designee to ensure compliance with the below

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listed limitations (as outlined in 1044.3.2) prior to their display. Personnel wishing to display visible tattoo(s) shall submit a memorandum of request to the Chief of Police which includes photographs and a written description of the tattoo(s). The description shall include the meaning of the tattoo(s). If approved, the employee will be allowed to display their tattoo(s) while on duty or representing the Department in any official capacity. A copy of the memorandum will be maintained in the employees personnel file.

(b) Any employee who obtains a new visible tattoo after this approval will be required to submit a subsequent memorandum for approval.

(c) At no time while on-duty or representing the Department in any official capacity shall an employee have a visible tattoo on their neck, face, scalp or head area.

(d) Personnel are prohibited from displaying tattoos on their hands, with the exception of single finger ring tattoos, or wedding band tattoos, on the ring finger. These tattoos must not extend beyond where a ring would normally rest on the finger, between the lowest knuckle and the hand. Single finger ring tattoos must not exceed the length of the space between the lowest knuckle and the hand. Single finger ring tattoos must be a band style around the ring finger and no greater than 1/2 inch in width. Only one (1) single finger ring tattoo per hand is permitted.

(e) Tattoo(s) can be visible when it is above the wrist(s), and any part of the leg(s).

(f) Multiple tattoos are permitted on the arm(s) and leg(s), including a tattoo sleeve. A tattoo sleeve or sleeve tattoo is a large tattoo or collection of smaller tattoos that covers most or all of a person's arm(s) or leg(s). There shall be no size restrictions for the tattoo(s). Tattoos are permitted on both arms and both legs. If any part of the tattoo sleeve or multiple tattooed area(s) is determined to be a prohibited tattoo (as outlined in 1044.3.2), that part of the arm(s) or leg(s) must be concealed while on duty or representing the Department in any official capacity.

### 1044.3.2 TATTOOS PROHIBITED

At no time while on-duty or representing the Department in any official capacity, shall any offensive tattoo or body art be visible (examples of offensive tattoos would include, but not be limited to, those which depict racial, sexual, discriminatory, gang related, or obscene language). The following includes, but is not limited to, the types of unauthorized tattoos, scarifications, or brands prohibited by this policy:

(a) Depictions of nudity or violence.

(b) Sexually explicit or vulgar art, words, phrases or profane language.

(c) Symbols likely to incite a strong reaction in the workplace, i.e., swastikas, pentagrams or similar symbols.

(d) Initials, acronyms or numbers that represent criminal or historically oppressive organizations, i.e., AB, KKK, SS, MM, BGF, HA666 or any street gang names, numbers and/or symbols.

At no time while on-duty or representing the Department in any official capacity shall an employee have a visible tattoo on their neck, face, scalp or head area.

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### 1044.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

(a) Tongue splitting or piercing.

(b) The complete or transdermal implantation of any material other than hair replacement.

(c) Abnormal shaping of the ears, eyes, nose or teeth

(d) Branding or scarification.

### 1044.5 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

### 1044.6 UPDATED

7/25/2022

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# Uniforms and Civilian Attire

## 1045.1 PURPOSE AND SCOPE

This policy provides guidelines for Palo Alto Police Department-authorized uniforms and civilian attire regulations. It is established to ensure that uniformed members will be readily identifiable to the public through the proper use and wearing of [department/office] uniforms, and that the appearance of members who wear civilian attire reflects favorably on the [Department/Office].

This policy addresses the wearing and maintenance of [department/office] uniforms, accessories, insignia, patches and badge; the requirements for members who wear civilian attire; and the authorized use of optional equipment and accessories by members of the [Department/Office].

Other related topics are addressed in the [Department/Office]-Owned and Personal Property, Personal Appearance Standards, Visible Display of Identification, and Facial Coverings policies.

The Uniform and Equipment Specifications Manual is maintained and periodically updated by the Chief of Police or the authorized designee. The manual should be consulted regarding authorized equipment and uniform specifications.

## 1045.2 UNIFORMS

The Chief of Police or the authorized designee shall maintain and update uniform and equipment specifications, which should be consulted by all members as needed. Uniforms shall be worn as described therein and as specified in this policy.

The following shall apply to those assigned to wear [department/office]-issued uniforms:

(a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.

(b) All Officers shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.

(c) Uniforms shall be worn in compliance with any applicable [department/office] specifications.

(d) Members shall wear only the uniform specified for their ranks and assignments (Penal Code § 13655).

(e) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.

(f) Uniforms are only to be worn while on-duty, for court, at official [department/office] functions or events, while in transit to or from work, or when authorized by the Chief of Police or the authorized designee.

1. When the uniform is worn while in transit, a non-uniform outer garment shall be worn over the uniform shirt to avoid bringing attention to the member while they are off-duty.

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(g) Members are not to purchase or drink alcoholic beverages while wearing any part of the [department/office]-issued uniform, including the uniform pants.

(h) All supervisors will perform periodic inspections of members under their commands to ensure conformance to this policy.

### 1045.2.1 IDENTIFICATION CARDS

The [Department/Office] issues each member an official department identification card bearing the member's name, full-face photograph, member identification number, member's signature, and signature of the Chief of Police or the official seal of the [Department/Office], and photo likeness. All members shall be in possession of their [department/office]-issued identification cards at all times while on-duty or in [department/office] facilities.

(a) Whenever on duty or acting in an official capacity representing the [Department/Office], members shall display their [department/office]-issued identification in a courteous manner to any person upon request and as soon as practical.

(b) Officers or other members working specialized assignments may be excused from the possession and display requirements when directed by their Division Captains.

### 1045.2.2 ACCESSORIES

Members shall adhere to the following when wearing [department/office] uniforms:

(a) Mirrored sunglasses will not be worn.

(b) Jewelry shall be in accordance with the specifications in Personal Appearance Standards Policy.

### 1045.2.3 INSIGNIA, PATCHES, AND BADGE

Only the following elements may be affixed to [department/office] uniforms unless an exception is authorized by the Chief of Police:

(a) Shoulder patch - The authorized shoulder patch supplied by the [Department/Office] shall be machine stitched to the sleeves of all uniform shirts and jackets.

(b) Badge - The [department/office]-issued badge, or an authorized sewn-on cloth replica, must be worn and visible at all times while in uniform.

(c) Nameplate - The regulation nameplate, or an authorized sewn-on cloth nameplate, shall be worn at all times while in uniform (Penal Code § 830.10).

1. When a jacket is worn, the nameplate, or an authorized sewn-on cloth nameplate, shall be affixed to the jacket in the same manner as the uniform.

(d) Rank insignia - The designated insignia indicating the member's rank must be worn at all times while in uniform.

(e) Service insignia - The designated insignia indicating the member's length of service may be worn on long-sleeve shirts and jackets. The insignia shall be machine stitched to the left sleeve of the uniform.

(f) Assignment insignias - Assignment insignias (e.g., [Crisis Response Unit] ([CRU]), Field Training Officer (FTO)) may be worn as designated by the Chief of Police.

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(g) American flag pin - An American flag pin may be worn, centered above the nameplate.

(h) Award/commendation insignia - Insignia representing an award or commendation received under the Commendations and Awards Policy, or other recognition authorized by the Chief of Police, may be worn, centered above the nameplate. If more than one award is worn, or an American flag pin is worn, the insignia shall be equally spaced in one or two horizontal rows centered above the nameplate in a manner that provides a balanced appearance.

#### 1045.2.4 MOURNING BAND

Uniformed members shall wear a black mourning band across the [department/office] badge whenever a law enforcement officer is killed in the line of duty or as directed by the Chief of Police. The following mourning periods will be observed:

(a) Palo Alto Police Departmentofficer - From the time of death until midnight on the 14th day after the death.

(b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.

(c) Funeral attendee - While attending the funeral of an out-of-region fallen officer.

(d) National Peace Officers' Memorial Day (May 15) - From 0001 hours until 2359 hours.

(e) As directed by the Chief of Police.

### 1045.3 UNIFORM CLASSES

The Chief of Police or the authorized designee shall determine the uniform to be worn by each [department/office] member or any deviations that may be authorized.

Uniforms are classified as follows:

(a) Class A - Full dress uniform to be worn by designated [department/office] members on special occasions, such as funerals, graduations, ceremonies, or as directed by the Chief of Police or the authorized designee.

(b) Class B - Standard issue uniform to be worn daily by designated [department/office] members.

(c)

(d) Specialized assignment - Specific uniforms to be worn by members in special assignments or divisions.

#### 1045.3.1 CLASS A UNIFORM

The Class A uniform consists of the following:

(a) Dress hat

(b) Long-sleeve shirt

(c) Tie

(d) Tie tack or tie bar

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(e) Trousers or skirt

(f) Black belt

1. Belts shall be equipped as needed for the member's assignment.

(g) Dark blue or black socks

1. Natural colored hose must be worn with the skirt.

(h) Black polished dress shoes

1. Boots with pointed toes are not permitted.

(i)

### 1045.3.2 CLASS B UNIFORM

The Class B uniform consists of the following:

(a) Long- or short-sleeve shirt with the collar open and no tie

1. A crew neck t-shirt must be worn under the uniform shirt.
2. All shirt buttons must remain buttoned except for the top button at the neck.
3. Long sleeves must be buttoned at the cuff.

(b) Trousers or skirt

(c) Black belt

1. Belts shall be equipped as needed for the member's assignment.

(d) Dark blue or black socks

1. Natural colored hose must be worn with the skirt.

(e) Black polished dress shoes

1. Approved black unpolished shoes may be worn.
2. Boots with pointed toes are not permitted.
3. Decorative stitching or adornment is not permitted.

(f) Weather-appropriate items

1. Hat
2. Dark blue or black mock turtleneck may be worn under the long-sleeve uniform shirt
3. Jacket
4. Rain gear

### 1045.3.3 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Canine Team, SWAT, Bicycle Patrol, Motor Officers and other specialized assignments.

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### 1045.4 CIVILIAN ATTIRE

There are assignments within the [Department/Office] that do not require the wearing of a uniform because recognition and authority are not essential to their functions. There are also assignments in which the wearing of civilian attire is necessary.

(a) Civilian attire shall fit properly, be clean and free of stains, and not damaged or excessively worn.

(b) Members assigned to administrative, investigative, and support positions shall wear business-appropriate clothing that is conservative in style.

(c) Variations from this policy are allowed at the discretion of the Chief of Police or the authorized designee when the member's assignment or current task is not conducive to wearing such clothing.

(d) No item of civilian attire that would adversely affect the reputation of the Palo Alto Police Department or the morale of the members may be worn while on-duty.

(e) The following items shall not be worn while on-duty or when representing the [Department/Office] in any official capacity:

1. Clothing that reveals cleavage, the back, chest, stomach, or buttocks
2. T-shirt alone or exposed undergarments
3. Swimsuits, tank tops, tube tops, or halter tops
4. Spandex-type pants or transparent clothing
5. Open-toed shoes
6. Clothing, buttons, or pins displaying racial, sexual, discriminatory, gang-related, or obscene language

### 1045.5 UNAUTHORIZED UNIFORMS, EQUIPMENT, AND ACCESSORIES

[Department/Office] members may not wear any uniform item, accessory, or attachment unless specifically authorized in the Uniform and Equipment Specifications Manual, by the Chief of Police, or the authorized designee.

[Department/Office] members may not use or carry any safety item, tool, or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications Manual, by the Chief of Police, or the authorized designee.

### 1045.6 UNIFORM PURCHASE/REPLACEMENT

#### 1045.6.1 INITIAL ISSUANCE

Unless otherwise listed, at the time of initial employment, every sworn employee will be issued the following uniform equipment:

(a) Three pairs of trousers;

(b) Three short-sleeved shirts;

(c) Three long-sleeved shirts;

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(d) Duty jacket;

(e) Necktie;

(f) Duty belt and necessary associated duty equipment;

(g) Rain gear will be issued upon entry to the FTO program;

(h) Ike jacket will be issued, at the officer's request, upon completion of probation.

All uniformed employees have the option at the time of initial issuance of obtaining one set of the regular uniform and two sets of the Blauer uniform, or two sets of the regular uniform and one set of the Blauer uniform. Employees must always have at least one set of a Class A uniform available.

### 1045.6.2 REPLACEMENT

Issued uniforms and equipment will be replaced on an as-needed basis. The Field Services Division Staff Assistant, who may or may not authorize the replacement based on the appearance of the item, will inspect the item. Uniforms with small holes in them may be patched instead of replacing them. Age, repairable holes or tears, etc. are not grounds for replacement. Employees may be issued used uniforms/equipment that are still in good repair instead of having the Department purchase new items. Items that are replaced will be returned to the Field Services Division Staff Assistant for appropriate disposal.

### 1045.6.3 EMPLOYEE RESPONSIBILITIES

**Accountability**: Employees are responsible for all issued uniforms and equipment. If a particular item is lost or damaged due to employee negligence, the employee will be required to reimburse the City for the replacement cost. All lost or damaged equipment will be reported immediately to a supervisor. The employee will submit a memo to his or her supervisor regarding the lost items.

**Departure from a specialty position**: Whenever any employee leaves a specialty position, he or she is responsible for returning all of the issued specialty equipment to the Field Services Division Staff Assistant. The specialty team's supervisor will be responsible for ensuring that this takes place.

**Departure from the City**: When an employee leaves the position of sworn officer, the unloaded duty weapon, speed loaders, magazines, Department ammunition, identification card, security card, badge, hat badge, TASER, TASER CAM and TASER cartridges will be turned in to the Personnel and Training Unit supervisor. All other issued equipment will be turned in to the Field Services Division Staff Assistant. The employee will be responsible for making arrangements to turn in all issued equipment. The employee may be charged for any equipment that is missing. Equipment will not be left in the employee's locker.

**Records**: The Field Services Division Staff Assistant will be responsible for maintaining files regarding issued equipment.

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### 1045.7 KNIFE (UTILITY)

At the employee's option and expense, a folding (Buck) type knife or a Leatherman style tool that contains a folding knife may be carried for utility purposes as part of the employee's uniform. The knife blade shall measure no more than four inches and shall have a single cutting edge. The knife shall be carried in a closed condition either in a sheath, which matches the other carriers on the duty belt, secured by a snap or Velcro and attached to the employee's duty belt or securely clipped to the employee's uniform. Fixed blade knives, boot knives, or switchblade knives (as defined in PC653k) are not authorized.

This section does not apply to members of Palo Alto SWAT during team activations or training; however, any deviation from the above authorized knives must be at the approval of the SWAT Team Coordinator.

### 1045.8 OPTIONAL EQUIPMENT- MAINTENANCE AND REPLACEMENT

a) Any of the items listed in the Uniform and Equipment Specifications manual as "optional" shall be purchased at the expense of the employee.No part of the purchase cost shall be offset by the department for the cost of providing the department issued item.

b) Maintenance of optional items shall be the financial responsibility of the purchasing employee.For example, repairs due to normal wear and tear.

c) Replacement of items listed in this order as optional shall be done as follows:

1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.

2. When the item is no longer functional because of damage int he course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property (see the Department Owned and Personal Property Policy 700.

### 1045.9 POLICY ISSUE DATE

Updated: 1-18-17

Updated 3-8-17

Updated 4-18-17

4/20/2022

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# Visible Display of Identification

## 1046.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for all officers to be readily identifiable to the public by the visible display of the Department name and individual identifying information when performing enforcement duties, except in described limited specific circumstances (Government Code § 7288).

This policy also serves as a declaration that the Palo Alto Police Department is committed to transparency, accountability, and public trust.

### 1046.1.1 DEFINITIONS

Definitions related to this policy include:

**Enforcement duties** - Active and planned operations involving the arrest or detention of an individual, or deployment for crowd control purposes.

**Visibly display identification** - To wear externally on the uniform in a size and location such as to be reasonably visible to a member of the public with whom the officer interacts.

## 1046.2 POLICY

It is the policy of the Palo Alto Police Department that all officers visibly display identification when performing enforcement duties except in circumstances set forth in this policy.

## 1046.3 VISIBLE DISPLAY OF IDENTIFICATION

Whenever performing enforcement duties, every officer shall visibly display identification, including the name of this Department and either the officer's name or badge number, or both name and badge number.

This requirement shall not apply under the following conditions:

(a) When officers are engaged in active undercover operations or investigative activities

(b) When officers are wearing personal protective equipment that prevents display

(c) When exigent circumstances exist involving an imminent danger to persons or property, the escape of a perpetrator, or the destruction of evidence, including if the officer is responding to those circumstances while off-duty

(d) When there is a specific, articulable, and particularized reason to believe that identification would pose a significant danger to the physical safety of the officer

## 1046.4 POSTING OF POLICY

The Chief of Police or the authorized designee shall make this policy publicly available on the Department website.

A written challenge regarding this policy shall be forwarded to the Chief of Police or the authorized designee, who shall then have 90 days to address or correct any alleged deficiencies. Court

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proceedings may not be initiated by the challenging party until this 90-day period has been completed.

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# Facial Coverings

## 1048.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for all sworn personnel regarding the restriction of facial coverings when performing their duties except in limited specific circumstances (Government Code § 7289).

This policy also serves as a declaration that the Palo Alto Police Department is committed to transparency, accountability, and public trust. Facial coverings are restricted as set forth in this policy.

### 1048.1.1 DEFINITIONS

Definitions related to this policy include:

**Facial covering** - Any opaque mask, garment, helmet, headgear, or other item that conceals or obscures the facial identity of an individual, including but not limited to a balaclava, tactical mask, gaiter, ski mask, and any similar type of facial covering or face-shielding item.

Facial covering does not include:

- A translucent face shield or clear mask that does not conceal the wearer's facial identity and is used in compliance with this policy.
- A N95 medical mask or surgical mask to protect against transmission of disease or infection or any other mask, helmet, or device, including but not limited to air-purifying respirators, full or half masks, or self-contained breathing apparatus necessary to protect against exposure to any toxin, gas, smoke, inclement weather, or any other hazardous or harmful environmental condition.
- A mask, helmet, or device, including but not limited to a self-contained breathing apparatus, necessary for underwater use.
- A motorcycle helmet when worn by an officer utilizing a motorcycle or other vehicle that requires a helmet for safe operations while in the performance of their duties.
- Eyewear necessary to protect from the use of retinal weapons, including but not limited to lasers.

## 1048.2 POLICY

It is the policy of the Palo Alto Police Department that facial coverings shall not be worn by officers in the performance of their duties except as set forth in this policy.

Generalized and undifferentiated fear and apprehension about officer safety shall not be sufficient to justify the use of facial coverings.

## 1048.3 FACIAL COVERINGS

Facial coverings shall not be worn by officers when performing their duties except under the following conditions:

(a) Active undercover operations or assignments authorized by a supervisor or court order

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(b) Tactical operations where protective gear is required for physical safety

(c) Applicable law governing occupational health and safety authorizes such use (e.g., N95 masks against transmission of disease or infection, self-contained breathing apparatus against exposure to hazardous conditions)

(d) Protection of identity during a prosecution proceeding

(e) Applicable law governing reasonable accommodations authorizes such use

Facial coverings shall only be used when no other reasonable alternative exists, and with the approval of a supervisor. The supervisor shall document the necessity of facial coverings in the appropriate report.

A supervisor shall not knowingly allow an officer to violate state law or [department/office] policy limiting the use of a facial covering.

## 1048.4 POSTING OF POLICY

The Chief of Police or the authorized designee shall make this policy publicly available on the [department/office] website.

A written challenge regarding this policy shall be forwarded to the Chief of Police or the authorized designee, who shall then have 90 days to address or correct any alleged deficiencies. Court proceedings may not be initiated by the challenging party until this 90-day period has been completed.

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# Police Explorer Program

## 1050.1 PURPOSE AND SCOPE

The Palo Alto Police Department Explorer Post is organized within the guidelines set forth by the national Learning for Life organization. The Post provides an opportunity for Explorers, consisting of juveniles and young adults of Palo Alto and surrounding areas, to improve community relations with the Police Department, learn about the law enforcement profession, develop life skills, and gain leadership experience.

The specific operational details of the Explorer Post are outlined in the PAPD Explorer Operations Manual, which is incorporated by reference herein. Part of the intent of this policy is to ensure that the Department conforms to the rules set forth by Learning For Life governing youth participation and oversight.

## 1050.2 EXPLORER POST ADVISOR STAFF POSITIONS

The Explorer Post Advisor Staff members are responsible for the general operation of the Explorer Post and its integration into Department activities, events, and operations.

All Staff Advisors shall, at a minimum, be non-probationary employees in good standing, be registered as an advisor with Learning For Life, have received training in Youth Protection, and participate in regular training as required by Learning For Life.

Head Advisor: The Head Advisor shall be appointed by the Field Services Division Captain and is responsible for the general administration and operations of the Post. The Head Advisor shall maintain the Post's registration with Learning For Life.

Associate Advisor: All Associate Advisors will report to the Head Advisor for Post matters. The Head Advisor is responsible for disciplinary matters involving Explorers. Associate Advisor: The Associate Advisor's are responsible for assisting with Post activities, events, training, and operations. Problems arising in the Post should be brought to the attention of the Head Advisor.

## 1050.3 EXPLORER UNIFORM AND ATTIRE

The Department will provide the Explorer Scout with uniform equipment as outlined in the Operations Manual. Explorers shall wear an appropriate uniform while on-duty at all details, on ride-alongs, and when performing volunteer services. Explorers shall wear appropriate civilian attire when participating in Post activities in which they are not considered to be on-duty.

## 1050.4 EXPLORER RIDE-ALONGS

Explorers may participate in ride-alongs with sworn, non-probationary officers in accordance with the guidelines set forth in the Operations Manual. Scheduling of all ride-alongs shall be performed through the proper Explorer chain of command. Explorers shall not individually schedule ride-alongs directly with officers although they may request to ride with a specific officer. While on a ride-along, Explorers shall take direction and orders from the host officer at all times. Explorers shall stay in or near the patrol vehicle unless directed to do otherwise by the officer. Explorers shall wear a seat belt.

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A standard Explorer ride-along is six (6) hours long. The Explorer may ride longer, at the officer's discretion, within the following guidelines: Ride-alongs shall start no earlier than 0700 hours and no later than 2000 hours. Ride alongs shall end no later than midnight for Explorers under 18 years old and no later than 0100 hours for Explorers 18 years old or older. In the event that an officer is unable to return the Explorer to the station or home by the deadline due to an extended call for service, the officer shall notify the field supervisor or watch commander and arrangements shall be made to return the Explorer to the station or home, as soon as is practical.

Explorers violating the ride-along hours shall be subject to discipline.

Either the officer or Explorer may terminate a ride-along at any time for any reason. When a ride-along is terminated early, the Explorer and the officer shall inform the Head Advisor of the circumstances and reason for the early termination in order to address any problems or concerns with the ride-along.

#### 1050.4.1 CRITICAL INCIDENTS AND OFFICER EMERGENCIES

Explorers are specifically ordered to remain in the patrol vehicle during incidents or calls that are obviously hazardous to the Explorer's health and safety. In the case of calls that are clearly life-threatening to the host officer (i.e. active-shooters, riots, etc.), reasonable efforts should be made to drop the Explorer off at a safe location before the officer arrives at that call. In such cases, the officer shall notify Communications of the Explorer's whereabouts and arrangements shall be made to take the Explorer home or back to the station, as soon as is practical. If the Explorer cannot be left at a safe location prior to arrival at the scene, the Explorer shall seek a position of cover near the scene.

Explorers are not expected to go to the aid of an officer in trouble, except to notify Communications of the emergency when possible. Explorers are expected to seek a safe position in the event that the Explorer's own safety is in serious jeopardy. However, this policy does not prohibit Explorers from taking reasonable steps to ensure their own safety in exigent circumstances.

If an Explorer is involved in a critical incident, the Head Advisor shall be notified immediately. The Explorer shall not be interviewed in depth, regardless of the Explorer's involvement, without an uninvolved Advisor present, except to ascertain immediately necessary public safety information. Any Explorers involved in a critical incident shall be offered limited initial counseling services through the Department.

### 1050.5 GENERAL EXPLORER SUPERVISION

To comply with the Youth Protection guidelines set forth by Learning For Life, Explorers shall not intentionally be placed in situations in which they are alone with only one adult in a private environment for an extended time. At least one Advisor and at least one additional supervising adult must attend any Post-specific activity.

Details and ride-alongs, by their nature, are assumed to occur in a public environment and thus only require a minimum of one sworn officer (preferably an Advisor at details) for supervision.

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For the purposes of supervision, a "supervising adult" is considered to be any Staff Advisor, Department employee, parent of an Explorer, Advisor of a different Explorer Post, or any other responsible adult of at least 21 years of age who has been approved by the Head Advisor.

### 1050.5.1 EMPLOYEE SUPERVISION DURING TRIPS/ACTIVITIES

Advisors and Department employees attending Post trips or activities are responsible for the safety and care of the Explorers. As such, at least one or more supervising adults must be in proper condition to tend to the needs of the Explorers at any given time. Supervising adults shall not consume alcohol for the duration of explorer trips/activities, regardless of whether during on or off duty hours.

### 1050.5.2 FRATERNIZATION

Explorers participate in activities that place them under the direct supervision of Palo Alto Police Department employees (both sworn and non-sworn). As such, fraternization between Explorers and Department employees is inconsistent and incompatible with the goals of this program. While it is natural for friendships to develop between Explorers and Department employees, social relationships are restricted as follows:

Palo Alto Police Department employees are specifically prohibited from establishing and/or maintaining dating, intimate, and/or sexual relationships with any Explorer in this Post.

## 1050.6 EXPLORER ACTIVITIES

Requests for Explorer involvement in details or volunteer tasks shall be made through the Head Advisor for scheduling and approval. Explorers shall not be recruited individually for details or volunteer opportunities. Event/activity coordinators may request specific Explorers with good cause.

Explorers may be utilized in Department and Community details in a capacity that does not intentionally place them in situations that present clear danger of physical harm. Explorers may also perform volunteer services for the Department. Such services may include, but are not limited to, assisting with tasks in the station and acting as role-players for training activities.

Explorers may participate in organized Post-specific activities (i.e. recreational field trips, Explorer Conferences, etc.) Activities shall be planned in accordance with Department and Learning For Life policies and shall be open to all eligible Explorers.

Explorers shall not be used in any covert or undercover operations as members of the Post. However, they may be offered the opportunity to participate as private citizens in such operations as permitted by Department policy. The Post and Learning For Life assume no liability or responsibility for any participants during such operations.

## 1050.7 OVERNIGHT TRIPS

Some Explorer details and activities may require one or more overnight stays away from home. On any overnight trip:

(a) At least one supervising adult must be of the same gender as any Explorer attending.

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(b) Supervising adults shall not share individual rooms with any Explorers, but may be in the same room as ALL Explorers if the sleeping location is arranged for the entire group (i.e. everyone is staying in a high school gym).

(c) Male and female Explorers shall not share an individual room, except those that are married to each other.

(d) Facilities must provide sufficient privacy for individuals when changing or bathing.

## 1050.8 EXPLORER MISCONDUCT-INTERNAL INVESTIGATIONS

This section does not apply to criminal investigations.

Although Explorers are at-will volunteers for the Department and may be terminated from their position without cause, Explorers are valued by the department. As such, allegations of misconduct should be reviewed in a fair, thorough, and impartial manner.

Any allegation(s) of Explorer criminal activity, policy violations, violations of guidelines set forth in the Operations Manual, or other impropriety shall be brought to the attention of the Head Advisor even if the allegations involve actions the Explorer took off-duty.

The Head Advisor may make brief initial inquiries to determine the accuracy and seriousness of the allegation(s). The inquiries should not be constructed as a "fishing expedition."

Should it appears from the initial inquiry that the Explorer should be placed on leave or terminated from the Post, the Head Advisor shall notify the Field Services Division Captain and conduct an investigation with management oversight.

Upon conclusion of the investigation, the Head Advisor shall discuss appropriate actions with the Field Services Division Captain, prior to imposing them.

Explorers under criminal investigation by any jurisdiction may be suspended from the Post immediately, pending the outcome of the criminal investigation. Explorers may be subject to Post-specific corrective actions based upon the criminal investigation findings.

Officers or citizens who have complaints about any individual Explorer or the Post shall bring their concerns to the Head Advisor directly. Hearsay complaints from third parties shall not be entertained.

### 1050.8.1 INTERVIEWING EXPLORERS '" INTERNAL INVESTIGATIONS

This section does not apply to criminal investigations

Any Explorer that is the subject to an investigation shall be interviewed as follows:

(a) The Explorer shall be informed of the specific allegation(s) at the start of an interview.

(b) The interview shall be conducted by a maximum of two people including the Head Advisor.

(c) The interview shall be held at a reasonable time of day and shall be as short as possible.

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(d) The interview shall focus strictly on the allegation(s) and shall not be a "fishing expedition."

(e) The Explorer shall be afforded any and all breaks necessary to tend to personal needs.

(f) The Explorer shall not be subjected to harsh language, threats, or other abusive behavior.

(g) The Explorer shall be allowed to bring a parent and/or an uninvolved representative (such as a Department employee) for support.

(h) The Explorer may have a maximum of two support persons.

1. The support person(s) may sit in on the interview to ensure that the Explorer is treated properly, but the interview may be terminated if the support person(s) unnecessarily interfere with the investigation.

2. If the Explorer cannot be interviewed without interference, then the investigation may be concluded without taking the unasked interview questions into consideration.

## 1050.9 EXPLORER DIRECTIVES

Absent exigent circumstances when no other options exist:

- Explorers shall not take direct criminal enforcement actions
- Explorers shall not be placed in circumstances or be asked to take any action that would intentionally subject them to being subpoenaed to court
- Explorers shall not use restricted computer systems (i.e. CJIC, CLETS, etc.), unless they are fully certified to do so and they are supervised by a qualified Department employee
- Explorers shall not drive marked patrol vehicles except while under immediate supervision during Department or Post sponsored training activities
- Explorers shall not drive a personal vehicle to perform official Department duties or activities unless specifically authorized to do so by the Head Advisor
- Explorers shall not conduct person searches of criminal suspects
- Explorers may perform light traffic control with a level of supervision appropriate to the conditions
- Explorers may, at the specific direction of an officer, assist with non-emergency and non-restricted duties (i.e. filling out forms as a scribe, broadcasting radio traffic, etc.)

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# Nepotism and Conflicting Relationships

## 1052.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

### 1052.1.1 DEFINITIONS

**Business relationship** - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than $250.

**Conflict of interest** - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

**Nepotism** - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

**Personal relationship** - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

**Public official** - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

**Relative** - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

**Subordinate** - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

**Supervisor** - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

## 1052.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940(a)):

(a) Employees are prohibited from directly supervising or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.

(b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.

(c) Whenever possible, FTOs and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.

(d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.

(e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

### 1052.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

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### 1052.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

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# Department Badges

## 1054.1 PURPOSE AND SCOPE

The Palo Alto Police Department badge and uniform patch as well as the likeness of these items and the name of the Palo Alto Police Department are property of the Department and their use shall be restricted as set forth in this policy.

## 1054.2 POLICY

The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

### 1054.2.1 FLAT BADGE

Sworn officers, with the written approval of the Chief of Police may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

(a) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the Palo Alto Police Department with the written approval of the Chief of Police.

(b) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department Owned and Personal Property Policy.

(c) An honorably separatedofficer may keep his/her flat badge upon retirement.

(d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

### 1054.2.2 CIVILIAN PERSONNEL

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Parking Control, Dispatcher).

(a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.

(b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

### 1054.2.3 RETIREE UNIFORM BADGE

Upon honorable separation, and with the written approval of the Chief of Police, employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be

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used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

### 1054.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and civilian uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

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# Temporary Modified-Duty Assignments

## 1056.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, current memorandums of understanding, or collective bargaining agreements. For example, nothing in this policy affects the obligation of the [Department/Office] to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability or limitation that is protected under federal or state law.

## 1056.2 POLICY

Subject to operational considerations, the Palo Alto Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the [Department/Office] with a productive employee during the temporary period.

## 1056.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (Government Code § 12940 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Palo Alto Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the [Department/Office]. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle or engaging in outside employment, or may otherwise limit them in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

## 1056.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

Employees seeking a temporary modified-duty assignment should submit to the Personnel and Training lieutenantaa certification from the treating medical professional containing:

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(a) An assessment of the nature and probable duration of the illness or injury.

(b) The prognosis for recovery.

(c) The nature and scope of limitations and/or work restrictions.

(d) A statement regarding any required workplace accommodations, mobility aids or medical devices.

(e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Personnel and Training lieutenantwill make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the [Department/Office] and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the City Attorney as appropriate.

### 1056.4.1 MODIFIED-DUTY ASSIGNMENTS AND SCHEDULES

Any assignment to modified duty will be on a temporary basis. This policy is not intended to create any permanent modified duty assignments. Any assignment to a modified duty position shall not displace any other employee without the consent of all parties involved. Every effort will be made to assign an employee to a task within the police department, however if no assignment is available, the employee may be assigned to another City Department to perform designated modified assignment, which will be coordinated by the City's Risk Manager.

The schedules of employees assigned to modified duty may be adjusted to suit medical appointments or Department needs. When acceptable to both the employee and management, the employee's work schedule will remain the same.

The employee and his/her supervisors should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

### 1056.4.2 MEDICAL EXAMINATIONS

The Department reserves the right to require, prior to returning to full-duty status, a fitness-for-duty examination of any employee assigned to a modified-duty assignment or of any employee having been on such assignment. Such examinations shall be at the expense of the Department.

Prior to returning to full-duty status, employees shall be required to provide a statement signed by their health care provider indicating that they are medically cleared to perform the basic and essential job functions of their assignment without restriction or limitation.

## 1056.5 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

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If notified by an employee or the employee's representative regarding limitations related to pregnancy, childbirth, or related medical conditions, the [Department/Office] should make reasonable efforts to provide an accommodation for the employee in accordance with federal and state law. The accommodation should be provided without unnecessary delay, as appropriate (42 USC § 2000gg-1; 29 CFR 1636.3; 29 CFR 1636.4; Government Code § 12945).

### 1056.6 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment may have their probation extended by a period of time equal to their assignment to temporary modified duty.

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# Employee Speech, Expression and Social Networking

## 1060.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the [Department/Office].

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### 1060.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

## 1060.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this [department/office]. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this [department/office] be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Palo Alto Police Department will carefully balance the individual employee's rights against the [Department/Office]'s needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

## 1060.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of the Palo Alto Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

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- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

### 1060.4 PROHIBITED SPEECH, EXPRESSION, AND CONDUCT

To meet the [department/office]'s safety, performance, and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

(a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation, or professionalism of the Palo Alto Police Department or its employees.

(b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Palo Alto Police Department and tends to compromise or damage the mission, function, reputation, or professionalism of the Palo Alto Police Department or its employees. Examples may include:

1. Statements that indicate disregard for the law or the state or U.S. Constitution.
2. Expression that demonstrates support for criminal activity.
3. Participating in sexually explicit photographs or videos for compensation or distribution.

(c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination, or illegal behavior.

(d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the [Department/Office]. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.

(e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Palo Alto Police Department.

(f) Use or disclosure, through whatever means, of any information, photograph, video, or other recording obtained or accessible as a result of employment with the [Department/Office] for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.

(g) Posting, transmitting, or disseminating any photographs, video or audio recordings, likenesses or images of [department/office] logos, emblems, uniforms, badges, patches, marked vehicles, equipment, or other material that specifically identifies the Palo Alto Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

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Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1060.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Palo Alto Police Department or identify themselves in any way that could be reasonably perceived as representing the Palo Alto Police Department in order to do any of the following, unless specifically authorized by the Chief of Police (Government Code § 3206; Government Code § 3302):

(a) Endorse, support, oppose or contradict any political campaign or initiative.

(b) Endorse, support, oppose or contradict any social issue, cause or religion.

(c) Endorse, support or oppose any product, service, company or other commercial entity.

(d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this [department/office], the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Palo Alto Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

## 1060.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) that is accessed, transmitted, received, or reviewed on any [department/office] technology system (see the Information Technology Use Policy for additional guidance).

The [Department/Office] shall not require an employee to disclose a personal user name or password for accessing personal social media or to open a personal social website; however,

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the [Department/Office] may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

### 1060.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

(a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.

(b) Whether the speech or conduct would be contrary to the good order of the [Department/Office] or the efficiency or morale of its members.

(c) Whether the speech or conduct would reflect unfavorably upon the [Department/Office].

(d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.

(e) Whether similar speech or conduct has been previously authorized.

(f) Whether the speech or conduct may be protected and outweighs any interest of the [Department/Office].

### 1060.7 TRAINING

Subject to available resources, the [Department/Office] should provide training regarding employee speech and the use of social networking to all members of the [Department/Office].

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# Illness and Injury Prevention

## 1061.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Palo Alto Police Department, in accordance with the requirements of 8 CCR 3203.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Citywide safety efforts.

## 1061.2 POLICY

The Palo Alto Police Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The [Department/Office] will establish and maintain an Illness and Injury Prevention program and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the [Department/Office] to comply with all laws and regulations related to occupational safety.

## 1061.3 ILLNESS AND INJURY PREVENTION PLAN

The City Safety Officer responsible for developing an illness and injury prevention plan that shall include:

(a) Workplace safety and health training programs.

(b) Regularly scheduled safety meetings.

(c) Posted or distributed safety information.

(d) A system for members to anonymously inform management about workplace hazards.

(e) Establishment of a safety and health committee that will:

    (a) Meet regularly.

    (b) Prepare a written record of safety and health committee meetings.

    (c) Review the results of periodic scheduled inspections.

    (d) Review investigations of accidents and exposures.

    (e) Make suggestions to command staff for the prevention of future incidents.

    (f) Review investigations of alleged hazardous conditions.

    (g) Submit recommendations to assist in the evaluation of member safety suggestions.

    (h) Assess the effectiveness of efforts made by the [Department/Office] to meet relevant standards.

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(f) Establishment of a process to ensure serious illnesses or injuries and death are reported as required by the Division of Occupational Safety and Health Administration (Cal/OSHA) (8 CCR § 342).

## 1061.4 RESPONSIBILITIES

The responsibilities of the City Safety OfficerAdministrative Services Division Captain include but are not limited to:

(a) Managing and implementing a plan to reduce the incidence of member illness and injury.

(b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:

1. New member orientation that includes a discussion of safety and health policies and procedures.
2. Regular member review of the illness and injury prevention plan.
3. Access to the illness and injury prevention plan to members or their representatives as set forth in 8 CCR 3203.

(c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.

(d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:

1. Informing members of the illness and injury prevention guidelines.
2. Recognizing members who perform safe work practices.
3. Ensuring that the member evaluation process includes member safety performance.
4. Ensuring [department/office] compliance to meet standards regarding the following:
   (a) Respiratory protection (8 CCR 5144)
   (b) Bloodborne pathogens (8 CCR 5193)
   (c) Aerosol transmissible diseases (8 CCR 5199)
   (d) Heat illness (8 CCR 3395; 8CCR 3396)
   (e) Emergency Action Plan (8 CCR 3220)
   (f) Fire Prevention Plan (8 CCR 3221)
   (g) Hazards associated with wildfire smoke (8 CCR 5141.1)

(e) Making available the Identified Hazards and Correction Record form to document inspections, unsafe conditions or work practices, and actions taken to correct unsafe conditions and work practices.

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(f) Making available the Investigation/Corrective Action Report to document individual incidents or accidents.

(g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.

(h) Conducting and documenting a regular review of the illness and injury prevention plan.

## 1061.5 SUPERVISOR RESPONSIBILITIES

Supervisor responsibilities include, but are not limited to:

(a) Ensuring member compliance with illness and injury prevention guidelines and answering questions from members about this policy.

(b) Training, counseling, instructing or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.

(c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.

(d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the City Safety Officer .

(e) Notifying the City Safety Officer when:

1. New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
2. New, previously unidentified hazards are recognized.
3. Occupational illnesses and injuries occur.
4. New and/or permanent or intermittent members are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
5. Workplace conditions warrant an inspection.

## 1061.6 HAZARDS

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition.

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Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be documented on an Identified Hazards and Correction Record form. This form should be forwarded to the City Safety Officer via the chain of command.

The City Safety Officer will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

## 1061.7 INSPECTIONS

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment.

The City Safety Officer shall ensure that the appropriate documentation is completed for each inspection.

### 1061.7.1 EQUIPMENT

Members are charged with daily vehicle inspections of their assigned vehicles and of their personal protective equipment (PPE) prior to working in the field. Members shall complete the Identified Hazards and Correction Record form if an unsafe condition cannot be immediately corrected. Members should forward this form to their supervisors.

## 1061.8 INVESTIGATIONS

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

(a) A visit to the accident scene as soon as possible.

(b) An interview of the injured member and witnesses.

(c) An examination of the workplace for factors associated with the accident/exposure.

(d) Determination of the cause of the accident/exposure.

(e) Corrective action to prevent the accident/exposure from reoccurring.

(f) Documentation of the findings and corrective actions taken.

(g) Completion of an Investigation/Corrective Action Report form.

(h) Completion of an Identified Hazards and Correction Record form.

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Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Occupational Disease and Work-Related Injury Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

## 1061.9 TRAINING

The City Safety Officer should work with the Personnel and Training Lieutenant to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

(a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.

(b) To all members with respect to hazards specific to each member's job assignment.

(c) To all members given new job assignments for which training has not previously been provided.

(d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.

(e) Whenever the Department is made aware of a new or previously unrecognized hazard.

### 1061.9.1 TRAINING TOPICS

The Personnel and Training Lieutenant shall ensure that training includes:

(a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.

(b) Use of appropriate clothing, including gloves and footwear.

(c) Use of respiratory equipment.

(d) Availability of toilet, hand-washing and drinking-water facilities.

(e) Provisions for medical services and first aid.

(f) Handling of bloodborne pathogens and other biological hazards.

(g) Prevention of heat and cold stress.

(h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).

(i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.

(j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.

(k) Back exercises/stretches and proper lifting techniques.

(l) Avoidance of slips and falls.

(m) Good housekeeping and fire prevention.

(n) Other job-specific safety concerns.

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### 1061.10 RECORDS

Records and training documentation relating to illness and injury prevention will be maintained in accordance with the established records retention schedule.

### 1061.11 POLICY UPDATES

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# Peer Support

## 1062.1 PURPOSE AND SCOPE

The purpose of the Palo Alto Police Department Peer Support Team is to provide personal support for all members of the Department who are involved in critical incidents while on or off duty, or who have experienced significant emotional events while off duty for which personal support is requested. Peer Support can help minimize the harmful effects of significant incidents and situations on the employee's mental, emotional, and physical well-being. The Peer Support Team is designed to be peer driven and its goal is to act in the best interests of both the employee and the Department. This team works in conjunction with the Police Chaplaincy Program and the Employee Assistance Program.

## 1062.2 DEFINITIONS

Critical Incident: An event that is outside the normal human experience. Examples include shootings, officer injury, gun take-aways, child deaths, officer suicides, disease exposure, disasters, etc. A critical incident can also be any incident experienced by an employee and the employee feels it affects his/her well-being.

Employee: Any member of the Palo Alto Police Department that is sworn, non-sworn, paid, or volunteer.

Peer Support Team: A group of employees trained to provide support to fellow employees in need of assistance listed in "Functions."

Peer Support Professional: A mental health professional with sufficient police exposure, and with whom the Peer Support Manager/Supervisor approves.

Post-Traumatic Stress: A normal reaction to an abnormal situation. Examples include, but are not limited to, the normal physical ailments as well as normal physiological responses (time distortion, altered visual and auditory perceptions) that occur during and after the incident.

## 1062.3 PEER SUPPORT TEAM FUNCTIONS

The three main functions of this team are to provide defusing, critical incident debriefing, and basic peer support.

Defusing: To provide immediate support to Department employees who have been involved in a critical incident. A defusing may be conducted individually or with the group of involved employees soon after the incident. During the defusing, the Peer Support member will facilitate a review of the incident and provide information to assist the employee through the initial emotional response caused by the incident. Peer support members will provide education and information to the employee, so they can better understand what has happened and what to expect in the future. Peer Support will also see to the immediate needs of the employee and their family through established resources as well as support for the employee.

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Critical Incident Debriefing: A process, normally occurring 48 to 72 hours after the incident, where involved employees along with Peer Support members and, in most cases, a Peer Support Professional, discuss the incident in a non-judgmental way. The purpose is to address informational gaps, normalize feelings and reactions, and educate employees about stress management techniques and resources. As with defusing, the goal is to minimize the effects of situations that could have a significant negative impact on employees and their family's mental, emotional, and psychological well-being.

Basic Peer Support: To maintain a group of employees with whom an employee can choose to discuss sensitive issues. These discussions will be as confidential as current law allows. Peer Support members will make employees aware of the various resources available for their specific needs. Peer Support is not intended to replace professional help, nor are Peer Support members professional counselors.

The Peer Support Team shall maintain an extensive list of resources that employees may use in time of need. These can include psychologists, counselors, clergy, and literature on death and dying, martial and childrens' issues, and normal and abnormal reactions to stress and post traumatic response. Additionally, Peer Support members may arrange emergency childcare, transportation, and meals as well as assist with notifications to families of employee injury or death.

## 1062.4 POLICY

Notification and Response: It is the policy of the Palo Alto Police Department that when an incident occurs that requires a mandatory critical incident debriefing, the Peer Support Lieutenant/Sergeant shall be notified by the Watch Commander. The Peer Support Team can also be called by a supervisor of the involved employee when, from their perspective, an incident has the potential for producing the type of emotional shock that may adversely impact the psychological well-being of the employee.

Structure: The Peer Support team is comprised of one or more Sergeants who are as team supervisors and the individual Peer Support members who are trained in peer support and critical incident debriefing. A Lieutenant will be assigned as the Team Coordinator, along with a member of the Palo Alto Police Department Chaplain program to provide logistical support and liaison with Department administration as necessary. Peer Support is available to all Department employees and both sworn and non-sworn employees may be team members.

### 1062.4.1 TRAINING AND SELECTION

Application Process: When an opening on the Peer Support Team is available, the application process is open to all sworn and non-sworn department employees. Desirable qualities include:

(a) Maturity in conduct and good listening skills

(b) Demonstrated history of caring for the welfare of fellow employees

(c) Be available for call-outs when not on scheduled leave

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Applicants must obtain a written recommendation on the applicant's suitability for the assignment from a current supervisor and submit it with their Application for Specialized Assignment. Applicants will interview for the position per policy guidelines.

Training/Selection: Peer Support members will attend the basic peer support course and will be considered to attend advanced and other pertinent course(s) as assigned by the Peer Support Supervisor. Consistent with policy and other part-time specialty assignments, team members will serve a minimum of 2 years on the team. Team members may be removed from the team for conduct inconsistent with this program's policy and objectives.

### 1062.4.2 ROLES AND RESPONSIBILITIES OF MEMBERS

Peer Support Team Coordinator: The assigned Lieutenant shall work directly with the assigned Department Chaplain coordinating and monitoring team activities, training, and member performance. The coordinator shall maintain a list of professional therapists/psychologists to assist the department as needed.

Peer Support Team Supervisor(s): The assigned Sergeant(s) are responsible for the following

(a) Coordinating the activation and use of Peer Support members as needed and ensuring notification of the Coordinator when the team is activated. The use of on-duty personnel should be considered prior to calling off-duty members.

(b) Monitoring the use of Peer Support Team members via statistical anonymous information on the use of the team, reporting such information to the Coordinator quarterly.

(c) Managing the training, development, and personnel issues of the team members with assistance from the Coordinator as directed.

Peer Support Team Members:

(d) Participate in initial and on-going training and attending team meetings.

() Maintain information on referral services and stress management.

(f) Conduct and assist as directed with defusings/debriefings, peers support sessions and providing referral information to employees.

(g) Be alert for employees who could benefit from referrals

Support Coordination: The Peer Support Lieutenant/Sergeant will coordinate initial and follow-up support for the involved employee, including logistical support. The Peer Support Team members will not hinder any criminal or administrative investigation.

Debriefing and Information: When possible, Peer Support will ensure that the employee receives a formal critical incident debriefing within 72 hours after the incident for those requiring a mandatory debriefing. Employees may request non-mandatory debriefings at any time. Peer support will also provide information to members so they can understand the normal responses to that incident, and what can be done to minimize their impact.

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Non-Critical Incidents: Employees may approach any peer Support member at any time for assistance in any personal matter. No record will be kept except for non-specific statistical purposes (Names will not be kept). Employees will not be referred to Peer Support by supervisors for unacceptable job performance or as a result of disciplinary action.

Mandatory Debriefing Incidents: Employees are required to participate in critical incident debriefings under the following circumstances:

(a) When an employee witnesses a death or imminent death to another employee.

(b) When a death or imminent death occurs to a citizen or an employee, as a result of that employee's action.

(c) When an employee is him/herself seriously injured, and a debriefing is logistically possible.

(d) When an incident such as a disaster occurs, or there are other special circumstances where the Chief agrees that a debriefing would be in the best interest of the employee and the Department.

### 1062.4.3 CONFIDENTIALITY

Confidentiality: Peer Support members shall maintain the confidentiality entrusted to them, and will not discuss any information obtained while providing peer support. It is understood, however, that by law, no confidential or privileged communication exists between a Peer Support member and an employee. Situations that cannot be maintained confidential are:

(a) When information received by the employee reveals that a criminal act has occurred, including but not limited to suspected child abuse, elder abuse, domestic violence, and narcotic offenses.

(b) When the Peer Support member is involved as a participant or witness.

(c) When there is reason to believe that an employee intends to injure him/herself or another person. In case if a threatened serious injury, a reasonable attempt shall be made to warn the intended victim(s).

(d) When, due to substance abuse, the employee is a danger to self, citizens, or fellow employees.

Clergy, Licensed Peer Support Professionals, and Medical Doctors are able to maintain confidential communications as allowed by law.

The Peer Support member will not be ordered to give information to the Department concerning the content of peer support sessions for administrative purposes, except as listed above.

Supervisory officers who are Peer Support members cannot abdicate their supervisory responsibilities when on-duty confronted by misconduct, disciplinary problems, or other improper actions on the part of the employee.

If a Peer Support member feels that immediate specialized assistance is necessary for an employee or a question regarding confidentiality arises, they may contact the Peer Support Supervisor, Peer Support Clergy member, or other professional referral for assistance.

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### 1062.5 POLICY ISSUE DATE

Updated: 12-19-16

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# Attachments

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# Statutes and Legal Requirements.pdf

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## Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

### *Definitions*

**CPC 422.55** - Provides general definition of hate crimes in California.

**CPC 422.56**- Provides definitions of terms included in hate crimes statutes.

**GC 12926**- Disability-related definitions applicable to some hate crime statutes.

## Felonies

### *Hate Crimes*

**CPC 422.7** - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

### *Related Crimes*

**CPC 190.2(a)(16)** - Homicide penalties related to certain hate crime related acts.

**CPC 190.03(a)** - Homicide penalties related to certain hate crime related acts.

**CPC 288(b)(2)** - Sexual assault of dependent person by caretaker

**CPC 368(b)** - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

**CPC 11412** - Causing or attempting to cause other to refrain from exercising religion by threat.

**CPC 11413** - Arson or destructive device at place of worship.

## Misdemeanors

### *Hate Crimes*

**CPC 422.6** - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

**CPC 422.77** - Violation of civil order (Bane Act) protecting the exercise of civil rights

### *Related Crimes*

**CPC 302** - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

**CPC 538(c)** - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

**CPC 640.2** - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

**CPC 11411** - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

## Enhancements

**CPC 190.2(a)(16)** - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

**CPC 190.3** - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

**CPC 422.75** - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

**CPC 1170.8** - Enhancement for robbery or assault at a place of worship.

**CPC 1170.85(b)** - Felony assault or battery enhancement due to age or disability.

## Reporting

**CPC 13023**- Requirement for law enforcement agencies to report hate crime data to DOJ.

**WI 15630** – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

## Training and Policy Requirements

**CPC 422.87** - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

**CPC 13519.6** - Defines hate crime training requirements for peace officers.

**CPC 13519.41** - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

## Miscellaneous Provisions

**CPC 422.78** - Responsibility for prosecution of stay away order violations.

**CPC 422.86** - Public policy regarding hate crimes.

**CPC 422.89** - Legislative intent regarding violations of civil rights and hate crimes

**CPC 422.92** - Hate crimes victims brochure requirement for law enforcement agencies.

**CPC 422.93** - Protection of victims and witnesses from being reported to immigration authorities.

**GC 6254** - Victim confidentiality.

# Supplemental Hate Crime Report.pdf

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State of California – Department of Justice
**SUPPLEMENTAL HATE CRIME REPORT**
POST 2-365 (01/2023) Page 1 of 2

Commission on
Peace Officer Standards and Training (POST)
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630 • 916 227-3909

☐ **Hate incident (No Crime Committed)** ☐ **Hate Crime (422.6 PC, 51.7 CC, 52.1 CC)**

## VICTIM

### *VICTIM TYPE*

☐ **Individual**

Legal name (Last, First):

| Date of Birth | Age | Sex | Race |
|---|---|---|---|
| | | | |

☐ **School, business or organization**

Name: _____

Type: _____
*(e.g., non-profit, private, public school)*

☐ **Faith-based organization**

Name: _____

Faith: _____

☐ **Other**

Name: _____

Type: _____

Address: _____

Date and time of incident: _____

Location of incident: _____

Date and time of report: _____

Location of report: _____

Agency Case #: _____

**NATURE OF CALL FOR SERVICE (check all that apply)**

☐ Crime against persons

☐ Crime against property

☐ Gang activity

☐ Other _____

## BIAS

### TYPE OF BIAS
***(Check all characteristics that apply)***

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
*(e.g., 9/11, holy days)*
☐ Association with a person or group with one or more of these characteristics (actual or perceived)
☐ Other: _____

### ACTUAL OR PERCEIVED BIAS – VICTIM'S STATEMENT

☐ Actual bias [Victim has the indicated characteristic(s)].
☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

### REASON FOR BIAS:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No

### BIAS INDICATORS (CHECK ALL THAT APPLY):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

SAMPLE

## HISTORY

### SUSPECT INFORMATION

Legal name (Last, First):

Other Names used (AKA):

| Date of Birth | Age | Sex | Race |
|---|---|---|---|
| | | | |

Relationship to Victim:

### RELATIONSHIP BETWEEN SUSPECT & VICTIM

Suspect known to victim: ☐ Yes ☐ No

Nature of relationship:

Length of relationship:

☐ Prior reported incidents with suspect: *Total #* _____

Prior unreported incidents with suspect:

☐ Yes ☐ No ☐ Unknown

## WEAPONS/FORCE

Weapon(s) used during incident? ☐ Yes ☐ No Type:

Force used during incident? ☐ Yes ☐ No Type:

## EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo/video ☐ Known

## RESOURCES

Resources offered at scene: ☐ Yes ☐ No

☐ Marsy's Law Handout ☐ Hate Crimes Brochure ☐ Other:

## MEDICAL

| Victim | Suspect | |
|---|---|---|
| ☐ | ☐ | Declined medical treatment |
| ☐ | ☐ | Will seek own medical treatment |
| ☐ | ☐ | Received medical treatment |
| ☐ | ☐ | Injuries observed |

| ***Completed by*** | ***Date*** |
|---|---|
| | |
| Name/Title/ID number | |
| | |

SAMPLE

# Hate Crime Checklist.pdf

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# HATE CRIME CHECKLIST



## VICTIM

**Victim Type:**

☐ **Individual**
Legal name (Last, First): _____
Other Names used (AKA): _____

☐ **School, business or organization**
Name: _____
Type: _____
*(e.g., non-profit, private, public school)*
Address: _____

☐ **Faith-based organization**
Name: _____
Faith: _____
Address: _____

**Target of Crime (Check all that apply):**

☐ Person ☐ Private property ☐ Public property

☐ Other _____

**Nature of Crime (Check all that apply):**

☐ Bodily injury ☐ Threat of violence

☐ Property damage

☐ Other crime: _____

Property damage - estimated value _____

## BIAS

**Type of Bias (Check all characteristics that apply):**

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense *(e.g., 9/11, holy days)*
☐ Other: _____

Specify disability (be specific):

_____

_____

**Actual or Perceived Bias – Victim's Statement:**

☐ Actual bias [Victim actually has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

*If perceived, explain the circumstances in narrative portion of Report.*

**Reason for Bias:**

**Do you feel you were targeted based on one of these characteristics?**
☐ Yes ☐ No *Explain in narrative portion of Report.*

**Do you know what motivated the suspect to commit this crime?**
☐ Yes ☐ No *Explain in narrative portion of Report.*

**Do you feel you were targeted because you associated yourself with an individual or a group?**
☐ Yes ☐ No *Explain in narrative portion of Report.*

**Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?**
☐ Yes ☐ No *Describe in narrative portion of Report.*

**Are there Indicators the suspect is affiliated with a criminal street gang?**
☐ Yes ☐ No *Describe in narrative portion of Report.*

**Bias Indicators (Check all that apply):**

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

*Describe with exact detail in narrative portion of Report.*

## HISTORY

**Relationship Between Suspect & Victim:**

Suspect known to victim? ☐ Yes ☐ No
Nature of relationship: _____
Length of relationship: _____
*If Yes, describe in narrative portion of Report*

☐ Prior reported incidents with suspect? Total # _____
☐ Prior unreported incidents with suspect? Total # _____
Restraining orders? ☐ Yes ☐ No
*If Yes, describe in narrative portion of Report*
Type of order: _____ Order/Case# _____

## WEAPONS

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____
Weapon(s) booked as evidence? ☐ Yes ☐ No
Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No

# HATE CRIME CHECKLIST

Page ____ of ____

## EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No  Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

## OBSERVATIONS

| VICTIM | SUSPECT |
|---|---|
| ☐ Tattoos | ☐ Tattoos |
| ☐ Shaking | ☐ Shaking |
| ☐ Unresponsive | ☐ Unresponsive |
| ☐ Crying | ☐ Crying |
| ☐ Scared | ☐ Scared |
| ☐ Angry | ☐ Angry |
| ☐ Fearful | ☐ Fearful |
| ☐ Calm | ☐ Calm |
| ☐ Agitated | ☐ Agitated |
| ☐ Nervous | ☐ Nervous |
| ☐ Threatening | ☐ Threatening |
| ☐ Apologetic | ☐ Apologetic |
| ☐ Other observations: _____ | ☐ Other observations: _____ |

**ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):**

| | | |
|---|---|---|
| Has suspect ever threatened you? | ☐ Yes | ☐ No |
| Has suspect ever harmed you? | ☐ Yes | ☐ No |
| Does suspect possess or have access to a firearm? | ☐ Yes | ☐ No |
| Are you afraid for your safety? | ☐ Yes | ☐ No |
| Do you have any other information that may be helpful? | ☐ Yes | ☐ No |

**Resources offered at scene:** ☐ Yes ☐ No Type: _____

## MEDICAL

| Victim | Suspect | |
|---|---|---|
| ☐ | ☐ | Declined medical treatment |
| ☐ | ☐ | Will seek own medical treatment |
| ☐ | ☐ | Received medical treatment |

Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No

**Paramedics at scene?** ☐ Yes ☐ No Unit # _____

Name(s)/ID #: _____

Hospital: _____

Jail Dispensary: _____

Physician/Doctor: _____

Patient #: _____

| Officer (Name/Rank) | Date |
|---|---|
| | |
| Officer (Name/Rank) | Date |
| | |
| Supervisor Approving (Name/Rank) | Date |
| | |

POST 05/19

# Supplemental Hate Crime Report-Agency.pdf

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**SUPPLEMENTAL HATE CRIME REPORT**



☐ **Hate incident (No Crime Committed)** ☐ **Hate Crime (422.6 PC, 51.7 CC, 52.1 CC)**

## VICTIM

### *VICTIM TYPE*

☐ **Individual**

Legal name (Last, First):

_____

| Date of Birth | Age | Sex | Race |
|---|---|---|---|
| | | | |

☐ **School, business or organization**

Name: _____

Type: _____

*(e.g., non-profit, private, public school)*

☐ **Faith-based organization**

Name: _____

Faith: _____

☐ **Other**

Name: _____

Type: _____

Address: _____

Date and time of incident:

_____

Location of incident:

_____

Date and time of report:

_____

Location of report:

_____

Agency Case #:

_____

**NATURE OF CALL FOR SERVICE (check all that apply)**

☐ Crime against persons

☐ Crime against property

☐ Gang activity

☐ Other _____

## BIAS

### TYPE OF BIAS

***(Check all characteristics that apply)***

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
*(e.g., 9/11, holy days)*
☐ Association with a person or group with one or more of these characteristics (actual or perceived)
☐ Other:
_____

### ACTUAL OR PERCEIVED BIAS – VICTIM'S STATEMENT

☐ Actual bias [Victim has the indicated characteristic(s)].
☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

### REASON FOR BIAS:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No

### BIAS INDICATORS (CHECK ALL THAT APPLY):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

**SUPPLEMENTAL HATE CRIME REPORT**


## HISTORY

### SUSPECT INFORMATION

Legal name (Last, First):

_____

Other Names used (AKA):

_____

| Date of Birth | Age | Sex | Race |
|---|---|---|---|
| | | | |

Relationship to Victim:

_____

### RELATIONSHIP BETWEEN SUSPECT & VICTIM

Suspect known to victim: ☐ Yes ☐ No

Nature of relationship:

_____

Length of relationship: _____

☐ Prior reported incidents with suspect: *Total #* _____

Prior unreported incidents with suspect:

☐ Yes ☐ No ☐ Unknown

## WEAPONS/FORCE

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____

Force used during incident? ☐ Yes ☐ No Type: _____

## EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo/video ☐ Known

## RESOURCES

Resources offered at scene: ☐ Yes ☐ No

☐ Marsy's Law Handout ☐ Hate Crimes Brochure ☐ Other: _____

## MEDICAL

| Victim | Suspect | |
|---|---|---|
| ☐ | ☐ | Declined medical treatment |
| ☐ | ☐ | Will seek own medical treatment |
| ☐ | ☐ | Received medical treatment |
| ☐ | ☐ | Injuries observed |

| ***Completed by*** | ***Date*** |
|---|---|
| | |

Name/Title/ID number

# INDEX / TOPICS

## A

ACCOUNTABILITY TO SUPERVISOR. . . 18
ADMINISTRATIVE INVESTIGATION. . . 94
ADMINISTRATIVE INVESTIGATIONS
Vehicle damage. . . . . 573
ADULT ABUSE
Sexual assault. . . . . 519
AIRCRAFT
Accidents. . . . . 403
Ambulance. . . . . 467
ALCOHOL. . . . . 724
ALCOHOL
Vehicle use. . . . . 570
ALCOHOL, INTOXICANTS. . . . . 235
ALCOHOL AND DRUGS. . . . . 98
ALCOHOL USE. . . . . 724
AMMUNITION. . . . . 98
AMMUNITION
Gun violence restraining order surrenders. 153
ANIMALS. . . . . 645
APPOINTMENTS
Communications supervisor. . . . . 597
Operations director. . . . . 545, 549
ARREST OF PUBLIC SCHOOL TEACHER. 308
ARRESTS
First amendment assemblies. . . . . 460, 462
ASSET FORFEITURE. . . . . 526
Fiscal Agent. . . . . 526
Forfeiture reviewer. . . . . 529
AUDIO/VIDEO RECORDING
Custodial interrogation. . . . . 514
AUDIO RECORDERS. . . . . 436
AUTHORITY, ETHICS. . . . . 232
AUTOMATED LICENSE PLATE READERS (ALPR). . . . . 455

## B

BADGE. . . . . 824
BIOLOGICAL SAMPLES. . . . . 310
BIOLOGICAL SAMPLES
Hazards. . . . . 407, 837
BODY ARMOR. . . . . 753
BOMBS
Aircraft accidents. . . . . 407
Chaplains. . . . . 316
MDT/MDC. . . . . 435
BRADY MATERIAL. . . . . 543
BREATH TEST. . . . . 500
BUCCAL SWABS. . . . . 310

## C

CANINES
Pursuits. . . . . 449
CHAPLAINS. . . . . 313
CHIEF EXECUTIVE. . . . . 11
CHILD
Sexual assault. . . . . 519
CHILD ABUSE. . . . . 198
CHILDREN
Transporting. . . . . 751
CITATIONS. . . . . 480
CIVIL
Liability response. . . . . 95
Subpoenas. . . . . 254
CODE-3. . . . . 125
COMMAND PROTOCOL. . . . . 17
COMMUNICABLE DISEASES
Illness and injury prevention. . . . . 833
COMMUNICATIONS CENTER
Foot pursuits. . . . . 452
COMMUNICATIONS WITH HEARING IMPAIRED OR DISABLED. . . . . 300
COMPUTERS
Digital evidence. . . . . 512
CONDUCT. . . . . 231
Standards of conduct. . . . . 234
CONFIDENTIALITY
Communications center. . . . . 601
Radio broadcasts. . . . . 434
CONTACTS AND TEMPORARY DETENTIONS
Warrant service. . . . . 547
CONTROL DEVICES. . . . . 78
CONTROL DEVICES. . . . . 78
CONTROL DEVICES
First amendment assemblies. . . . . 461
Training. . . . . 394
CONTROL DEVICES, CUSTODY
FIREARMS, Custody. . . . . 664
CORRESPONDENCE. . . . . 39
COURT APPEARANCES. . . . . 253
COURT ORDERS
Gun violence restraining order surrenders. 153
Subpoenas. . . . . 253
CRIME ANALYSIS. . . . . 595

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CRIME SCENE. . . . . 342
CRISIS NEGOTIATION TEAM. . . . . 347
CRISIS RESPONSE UNIT. . . . . 347
CUSTODIAL INTERROGATIONS. . . . 513

# D

DAMAGE BY CITY PERSONNEL. . . . 247
DEADLY FORCE REVIEW. . . . . 71
DEATH
Chaplains. . . . . 315
DEBRIEFING
Tactical. . . . . 96
Warrant service. . . . . 547
DECONFLICTION. . . . . 551
DEPARTMENT OWNED PROPERTY. . . 560
DEPARTMENT PROPERTY
Loss Or Damage. . . . . 561
DIGITAL RECORDERS. . . . . 436
DISABLED
Motorist. . . . . 508
DISASTER SCENE. . . . . 342
DISCIPLINE. . . . . 232
DISCLAIMER OF POLICIES. . . . . 13
DISCRIMINATION, CONDUCT. . . . . 236
DIVISION. . . . . 17
DNA SAMPLES. . . . . 310
DRIVING
MDT/MDC. . . . . 433
DRIVING, SAFETY SAFETY, CONDUCT
FIREARMS, CONDUCT. . . . . 235
DRUG USE. . . . . 724
DUI ENFORCEMENT. . . . . 499

# E

ELECTRICAL LINES. . . . . 398
ELECTRONIC CIGARETTES. . . . . 740
ELECTRONIC MAIL. . . . . 33
EMERGENCY UTILITY. . . . . 398
EMPLOYEE COMMENDATIONS. . . . . 765
EVALUATION. . . . . 698
EVIDENCE
Digital. . . . . 512
Public Safety Video Surveillance. . . . 320
EVIDENCE, BOMBS. . . . . 373
EXPLOSIONS. . . . . 372
EXPOSURE CONTROL
Reviews. . . . . 833

# F

FIELD DETAINEES. . . . . 412
FIELD INTERVIEW. . . . . 412
FIELD PHOTOGRAPHS. . . . . 412
FIELD SOBRIETY TESTS. . . . . 499
FIREARMS. . . . . 101
Storage of. . . . . 101
FIREARMS
Destruction of animals. . . . . 655
Removal for vehicle maintenance. . . . 566
Retiree. . . . . 49
FIREARM SERIAL NUMBERS. . . . . 623
FITNESS FOR DUTY. . . . . 769
FORCE. . . . . 71
FOREIGN DIPLOMATIC AND CONSULAR
REPRESENTIVES. . . . . 388

# G

GANGS, EMPLOYEE AFFILIATION. . . 236
GRIEVANCE PROCEDURE. . . . . 715
GROOMING STANDARDS. . . . . 802

# H

HAZARDOUS MATERIAL (HAZMAT)
RESPONSE
Aircraft accidents. . . . . 407
HAZARDS. . . . . 835
HEARING IMPAIRED. . . . . 300
HELICOPTER ASSISTANCE. . . . . 411
HIGH-VISIBILITY VESTS. . . . . 480

# I

INFORMATION TECHNOLOGY USE
TECHNOLOGY USE. . . . . 241
INSPECTIONS
Illness and injury prevention. . . . 833, 836
Personal protective equipment. . . . . 836
Vehicles. . . . . 836
INTERIM DIRECTIVE. . . . . 20
INVESTIGATION AND PROSECUTION. . 512

# J

JURISDICTION
Aircraft accidents. . . . . 405

# K

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KEYS
Vehicle. . . . . 569
KINETIC PROJECTILES. . . . . 80

# L

LIMITED ENGLISH PROFICIENCY. . . . 285
LIMITED ENGLISH PROFICIENCY
Communications center. . . . . 599

# M

MANUALS. . . . . 21
MDT/MDC
Use. . . . . 569
Vehicles. . . . . 569
MEAL PERIODS AND BREAKS. . . . . 773
MEDIA
Aircraft accidents. . . . . 407
OIS. . . . . 96
MEDICAL
Aircraft accidents. . . . . 405
Releases. . . . . 467
MOBILE DIGITAL TERMINAL USE. . . 433
MODIFIED-DUTY ASSIGNMENTS. . . . 826
MUTUAL AID
Warrant service. . . . . 547

# N

NONSWORN
Vehicles. . . . . 570
NOTIFICATIONS
Aircraft accidents. . . . . 405
Impaired driving. . . . . 501
Sexual assault. . . . . 519
Sick leave. . . . . 727

# O

OATH OF OFFICE. . . . . 12
OFFICER SAFETY
Communications center. . . . . 599, 601
Foot pursuits. . . . . 449
LEOSA. . . . . 49
Occupational hazards. . . . . 835
Seat belts. . . . . 751
Warrant service. . . . . 545
ON DUTY INJURIES. . . . . 792
OPERATIONS PLANNING AND
DECONFLICTION. . . . . 549
ORGANIZATIONAL STRUCTURE. . . . 17
OUTSIDE AGENCY ASSISTANCE. . . . 264
OUTSIDE EMPLOYMENT
Change in Status. . . . . 790
Obtaining Approval. . . . . 787
Prohibited Outside Employment. . . . 788
Security Employment. . . . . 789
OVERTIME
Court. . . . . 255
OVERTIME PAYMENT. . . . . 777

# P

PARKING. . . . . 570
PAT-DOWN SEARCH. . . . . 412
PEPPER PROJECTILES. . . . . 80
PERSONAL APPEARANCE. . . . . 802
PERSONAL PROPERTY. . . . . 560
Loss Or Damage. . . . . 561
PERSONNEL ORDER. . . . . 39
PHOTOGRAPHS
Aircraft accidents. . . . . 406
PHYSICAL AND MENTAL
EXAMINATIONS. . . . . 770
POLICE CADETS. . . . . 816
POLICY MANUAL. . . . . 13
POLITICAL ACTIVITY. . . . . 831
POLITICAL ENDORSEMENTS. . . . . 831
PRIVACY EXPECTATIONS
MDT/MDC. . . . . 434
PRIVATE PERSONS ARRESTS. . . . . 283
PROPERTY PROCEDURES
Property Booking. . . . . 603
PROTECTED INFORMATION
Communications center. . . . . 601
PROTECTED INFORMATION,
UNAUTHORIZED RELEASE BADGES,
PATCHES AND IDENTIFICATION, CONDUCT
CONFIDENTIALITY, CONDUCT. . . . . 236
PUBLIC SAFETY VIDEO SURVEILLANCE 318
PURSUITS
Foot. . . . . 449

# R

RAPID RESPONSE AND DEPLOYMENT. 392
REASONABLE SUSPICION. . . . . 412
RECORDERS. . . . . 436
RECORDS BUREAU

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Impaired driving. . . . . 502
RECORDS RELEASE
Public safety video surveillance. . . . . 320
RECORDS RETENTION
Illness and injury prevention. . . . . 838
Oath of office. . . . . 12
REFLECTORIZED VESTS. . . . . 480
RELIGION, ACCOMMODATIONS IN CUSTODY. . . . . 663
REPORT CORRECTIONS. . . . . 247
REPORT PREPARATION. . . . . 245
RESERVE
Duties. . . . . 258
RESERVE OFFICERS. . . . . 258
Coordinator. . . . . 259
Firearms Requirements. . . . . 262
Training. . . . . 259
RESPONSE TO CALLS. . . . . 125
REVIEWS
Exposures. . . . . 833
Illness and injury prevention. . . . . 833
RIDE-ALONG. . . . . 359
Eligibility. . . . . 359
RISK ASSESSMENT. . . . . 549
ROLL CALL TRAINING. . . . . 341

# S

SAFETY
Canine. . . . . 569
Communications center. . . . . 597
Inspections (occupations). . . . . 836
Temporary custody of adults. . . . . 661
SAFETY EQUIPMENT
First amendment assemblies. . . . . 460
Seat belts. . . . . 751
SCHOOL EMPLOYEE REPORTING. . . . 308
SEARCH & SEIZURE. . . . . 156
SEARCHES
Gun violence restraining orders. . . . . 152
SEARCH WARRANTS. . . . . 545
SECURITY EMPLOYMENT. . . . . 789
SEXUAL ASSAULTS. . . . . 519
SICK LEAVE. . . . . 727
SKELLY PROCEDURE. . . . . 239
SMOKING AND TOBACCO USE. . . . . 740
SOCIAL NETWORKING. . . . . 829
STAFFING LEVELS. . . . . 40
STANDARDS OF CONDUCT. . . . . 231
SUBPOENAS. . . . . 253
SUBPOENAS AND COURT APPEARANCES 253
SUCCESSION OF COMMAND. . . . . 17

# T

TAKE HOME VEHICLES. . . . . 571
TEAR GAS. . . . . 79
TIME CARD. . . . . 776
TIME CARDS. . . . . 776
TOLL ROADS. . . . . 574
TRAFFIC FUNCTION AND RESPONSIBILITY. . . . . 479
TRAFFIC OFFICER/DEPUTY. . . . . 479
TRAFFIC SIGNAL. . . . . 398
TRAINING
SWAT. . . . . 351
TRAINING
ALPR. . . . . 457
Canine. . . . . 143
Dispatcher. . . . . 602
Hazardous materials. . . . . 837
Impaired driving. . . . . 503
Occupational safety. . . . . 837
Operation planning and deconfliction. . 553
Public safety video surveillance. . . . . 321
Rapid response and deployment. . . . . 394
Warrant service. . . . . 548
TRAINING PLAN. . . . . 24
TRAINING POLICY. . . . . 24

# U

UNIFORMS
Courtroom attire. . . . . 255
UNITY OF COMMAND. . . . . 18
USE OF FORCE
First amendment assemblies. . . . . 461
UTILITY SERVICE. . . . . 398

# V

VEHICLE MAINTENANCE. . . . . 566
VEHICLE PURSUITS. . . . . 112
VEHICLES
Impound hearings. . . . . 497

# W

WARNING SHOTS. . . . . 108
WARRANT SERVICE. . . . . 545
WASHING OF VEHICLES. . . . . 567
WATCH COMMANDERS. . . . . 423
WATER LINES. . . . . 398
WORKERS COMPENSATION. . . . . 792

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