



Police Review Commission (PRC)

LEXIPOL POLICIES SUBCOMMITTEE
Commissioners Perezvelez (Chair), Ramsey, Roberts

AGENDA

Wednesday, July 10, 2019
5:30 p.m.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. **CALL TO ORDER**
2. **PUBLIC COMMENT**
(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on items on this agenda only.)
3. **APPROVAL OF AGENDA**
4. **OLD BUSINESS (discussion and action)**
 - a. Review Lexipol Policy #333, Private Person's Arrests, revised by BPD.
5. **NEW BUSINESS (discussion and action)**
 - a. Review the following Lexipol policies

Lexipol #	G.O. (if any)	Title
200	D-02, D-06, R-04, U-03 Police Regs Ch. 4	Organizational Structure and Responsibility <i>(Previously reviewed but BPD has since revised.)</i>
301	R-03	Use of Force Review Boards
347	F-05	Firearms Training Unit
407	X-01	Hostage and Barricade Incidents
409		Crisis Intervention Incidents
410	I-16	Mental Illness Commitments
411	C-10	Cite and Release Policy

412		Foreign Diplomatic and Consular Representatives
413	U-04, V-04	Rapid Response and Deployment

b. Decide which policies to review next.

6. SCHEDULE NEXT MEETING DATE

7. ADJOURNMENT

Communications Disclaimer

Communications to the Police Review Commission, like all communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the PRC Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the PRC Secretary for further information.



Communication Access Information (A.R.1.12)

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Police Review Commission, located at 1947 Center Street, 1st floor, during regular business hours.

Contact the Police Review Commission at (510) 981-4950 or prc@cityofberkeley.info.

Private Person's Arrests

333.1 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.

333.2 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.

333.3 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.

333.4 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 ~~confirms determines~~ that a private person's arrest ~~appears to be~~ unlawful ~~shall/should~~ promptly release the arrested individual pursuant to Penal Code

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§ 849(b)(1). The officer must include the basis of such a determination in a related report.

2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.

(b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:

1. Take the individual into physical custody for booking
2. Release the individual pursuant to a Notice to Appear
3. Release the individual pursuant to Penal Code § 849

333.5 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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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 Berkeley Police Department. There are ~~four~~five divisions in the Police Department as follows:

- (a) Investigations Division
- (b) Operations Division
- (c) Professional Standards Division
- (d) Support Services Division

200.2.1 INVESTIGATIONS DIVISION

The Investigations Division is commanded by a Captain, whose primary responsibility is to provide general management, direction and control for the Investigations Division. The Investigations Division consists of the Detective Bureau and the Traffic Bureau.

200.2.2 OPERATIONS DIVISION

The Operations Division is commanded by a Captain, whose primary responsibility is to provide general management, direction and control for the Operations Division. The Operations Division consists of the Patrol Bureau and the Uniformed Patrol Community Services Bureau, and Special Operations, which includes Traffic, the Communications Center and Police Aides/Assistants.

200.2.3 PROFESSIONAL STANDARDS DIVISION

The Professional Standards Division is commanded by a Captain, whose primary responsibility is to provide general management, direction and control for the Professional Standards Division. The Professional Standards Division consists of the Professional Standards Bureau and the Personnel and Training Bureau.

200.2.4 SUPPORT SERVICES DIVISION

The Support Services Division is commanded by a Captain, whose primary responsibility is to provide general management, direction and control for the Support Services Division. The Support Services Division consists of the Support Services Bureau and the Communications Center, Technical Services and Administrative 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 **Captainommander** to serve as the acting Chief of Police.

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

- ~~(a) — Operations Division Captain~~
- ~~(b) — Investigations Division Captain~~
- ~~(c) — Support Services Division Captain~~
- ~~(d) — Professional Standards Division Captain~~
- ~~(e) — Duty Command Officer~~
- ~~(f) — 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., **SRT, FTOK-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.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: January 18, 2005

GENERAL ORDER D-2

SUBJECT: DETECTIVE BUREAU

PURPOSE

- 1 - The purpose of this General Order is to establish the investigative responsibilities of the Detective Bureau.

POLICY

- 2 - It is the policy of the Berkeley Police Department that the Detective Bureau is responsible for follow-up investigations, with the exception of cases that are the responsibility of the Patrol Division (see paragraph 3 (b) below).

PROCEDURES

- 3 - The Detective Bureau, administered by a Lieutenant who is directly responsible to the Captain of the Support Services Division, is composed of five investigative details.
 - (a) The procedures of this General Order do not pertain to the Youth Services Detail of the Detective Bureau. The duties and responsibilities of the Youth Services Detail are described in General Order J-16 and Police Regulation 408.
 - (b) The Detective Bureau is divided into five investigative Details: Homicide, Robbery, Sex Crimes/Domestic Violence Prevention Unit, Youth Services, and Property Crimes. The Detective Sergeant in charge of each Detail is a working investigator. The respective Details have responsibility for follow-up investigations of all reported crimes listed below except for the following types of cases handled by Patrol Division:
 - (1) Auto burglary, theft from auto cases, and malicious damage to vehicles,
 - (2) Misdemeanor assault/battery cases (not sex related),
 - (3) Misdemeanor weapon brandishing cases,
 - (4) Felony and misdemeanor hit and run cases,
 - (5) Initial and second follow-up on adult missing person cases,
 - (6) Initial follow-up on juvenile missing/runaway cases,
 - (7) Abandoned auto follow-ups, when assigned,
 - (8) Re-contact for cases where the officer was unable to initially contact the victim/reporting party, or otherwise finish a "complete

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DATE ISSUED: January 18, 2005

GENERAL ORDER D-2

preliminary investigation" as delineated in General Order C-2,

(9) **Disturbing the Peace.**

4 - The responsibilities of each Detective Bureau Detail are as follows:

(a) Homicide Detail

- (1) Homicide
- (2) Adult missing persons (after second follow-up by assigned officer)
- (3) Dead body found, suicide and attempted suicide
- (4) Escapes and jail breaking
- (5) Felony assaults and brandishings
- (6) Disturbing the peace (except those involving domestic disputes)
- (7) Disturbing phone calls (involving threat of injury or death).
- (8) Elder physical abuse
- (9) Hate Crimes/Incidents

(b) Robbery Detail

- (1) Robbery
- (2) Bank robbery
- (3) Bribery
- (4) Extortion
- (5) Gun sales
- (6) Hijacking
- (7) Kidnapping (no sexual involvement)
- (8) Grand theft person/gun
- (9) Till tap
- (10) Weapons (concealed, illegal or suspicious).

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GENERAL ORDER D-2

(c) Sex Crimes Detail/Domestic Violence Prevention Unit

- (1) Sex Crimes felony and misdemeanor (Exception: Reports of molest or sexual exploitation of children under the age of 14 is the responsibility of the Youth Services Detail)**
- (2) Kidnapping (with sexual involvement)**
- (3) Rape (forcible and unlawful sexual intercourse)**
- (4) Sex Battery**
- (5) Sex registrants**
- (6) Indecent exposure**
- (7) Prowler/peeper (with sexual involvement)**
- (8) Disturbing phone calls (except those involving bomb threats or threats of physical injury)**
- (9) Domestic Violence (for specifics refer to G.O. D-5)**
- (10) Meagan's Law Notification (for specifics refer to G.O. M-6)**

(d) Property Crimes Detail

- (1) Vehicle theft and recovery (including joyriding).**
- (2) Permits for used car and wrecking businesses, and inspection of these premises pursuant to Vehicle Code section 2805.**
- (3) Malicious damage to a vehicle (coordination of series only).**
- (4) Auto burglaries (coordination of series only).**
- (5) Thefts from auto (coordination of series only).**
- (6) Counterfeiting (liaison only).**
- (7) Credit card violation with viable leads.**
- (8) Embezzlement with viable leads**
- (9) Forgery with viable leads**
- (10) Counterfeit checks with viable leads**

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- (11) Purse/Wallet thefts (follow-up on in custody cases or where loss exceeds \$400.00)
 - (12) Confidence schemes i.e., Jamaican Switch, etc.
 - (13) Computer Crimes
 - (14) Financial Elder abuse
 - (15) Burglary
 - (16) Stolen property (follow-up on in-custody cases)
 - (17) Thefts (follow-up on in-custody cases or loss exceeds \$400)
 - (18) Arson (follow-up on in-custody cases and damage exceeding \$1,000)
 - (19) Buy/sell operations (meet State requirement to license establishments)
 - (20) Bombings, **bomb threats** and explosions
- 5 - In addition to the five primary Details, the following services **shall** be provided: Coordinator for Services for Victims of Violent Crimes and Domestic Violence: The Coordinator is not normally responsible for the investigation of any criminal case. The primary function is one of referral and coordination, not investigation. The Coordinator is responsible for:
- (a) Liaison with governmental and community agencies which provide support services to victims of domestic violence and other forms of crime.
 - (b) Assisting victims in making use of available support services.
 - (c) Assisting in the development and implementation of in- service training programs in the general area of victim sensitivity, family crisis intervention, and domestic violence.
- 6 - In addition to the regularly assigned Detective Sergeants, Patrol Officers can be assigned to the Detective Bureau to assist in investigations.
- 7 - Requests from outside agencies for the investigations of local residents in connection with a felony **shall** be assigned to the Detail who would be assigned to such an offense if committed in Berkeley.
- 8 - The Detective Bureau may be notified of any reports involving the offenses listed in paragraph four received during the on-duty hours of that Bureau.

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- 9 - When the Detective Bureau is off-duty, the regularly assigned Detective Sergeant **should** be notified immediately of all reports involving the following offenses. **If the Detective Sergeant is unavailable, the Support Services Commander should** be notified. (A list of home phone numbers is maintained in the Communications Center).
- (a) Bombings and explosions
 - (b) Escapes and jail breaking
 - (c) Homicide
 - (d) Officer Involved Shootings (The **Sergeant** in Homicide will be notified of any Officer Involved Shootings in Berkeley and any such shootings in other jurisdictions where Berkeley Police Personnel are involved.)
 - (e) **Fire Investigations, whenever a dead body is found at the fire scene**
 - (f) Kidnapping
 - (g) Residential stranger rape
 - (h) Bank robbery
- 10 - At the discretion of the Watch Commander, such notification may be made in the event of the following offenses:
- (a) Arson
 - (b) Rape, other than residential stranger rape
 - (c) Hijacking.
- 11 - In all other offenses, if a report is received when the Bureau is off-duty, the Commanding Officer on-duty or the ranking officer acting in his/her absence **shall** decide whether the circumstances warrant calling a Detective Sergeant.
- 12 - The following offenses are solely Detective Bureau assignments. Other officers **shall** respond whenever prompt action is necessary and, if needed, conduct the preliminary investigation.
- (a) Homicide
 - (b) Bank robbery.

Any subsequent investigation will be the responsibility of the regularly assigned Detail.

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- 13 - In homicide offenses, under most circumstances, the initial investigation at the scene and the preparation of the crime report **shall** be solely a Detective Bureau assignment. Once responding officers determine a homicide has occurred (or the victim is likely to expire) and no medical aid is needed for others, the scene **should** be "FROZEN" and on-call Homicide personnel **shall** be notified. The "Homicide Guide for Supervisors," which is located in the General Information Handbook, **shall** also be followed. The on-call list for Homicide Detail personnel is maintained in the Communications Center.
- 14 - In bank robbery offenses, the initial investigation at the scene and the preparation of the crime report **shall** be solely a Detective Bureau assignment. However, this **shall** not relieve the first officer arriving on the scene of responsibility for obtaining immediately and transmitting to the Communications Center information essential to **promptly apprehend** the offender. During non-business hours, attempts **should** be made to contact Robbery Detail personnel at home. If Robbery Detail personnel are unable to respond, the Patrol Division will complete the investigation.
- 15 - Case Management: Copies of investigation reports **shall** be routed to the Detective Bureau and, upon receipt, will be distributed to the appropriate Detail. The Detective Sergeant in charge of each Detail **shall** be responsible for the assignment of follow-up investigations.
 - (a) All cases involving serious crimes against persons (i.e., Homicide, Sex Crimes, and Robbery Details) **should** be assigned for follow-up contact and investigation.
 - (b) Cases involving crimes against property that have no evident productive leads (usually assigned a "suspend" status by the Patrol Division) will remain in the "suspended status" following review and be filed. Cases that have potentially productive leads **should** be assigned for investigation.
 - (c) Cases that involve the arrest of persons who are "Career Criminals", as defined by California Penal Code, Section 13583, **shall** be carefully reviewed. Detective Bureau Sergeants **shall** act as liaison with the Alameda County District Attorney's Office, Career Criminal Prosecution Unit, and render whatever assistance is necessary to further Career Criminal Prosecution.

References: CALEA Standards
General Orders C-2, D-1, D-4, **D-6**, J-16, O-1, O-3, O-6, O-7, O-8, P-29,
P-31, P-61, R-18, R-19, R-20, R-21, and T-16
Penal Code Section 11114
Police Regulation 408
Report Writing Manual

BERKELEY POLICE DEPARTMENT

DATE ISSUED: January 18, 2005

GENERAL ORDER D-2

Special Order 88-75273

Special Order 91-26, issued May 12, 1991

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 1, 2000

GENERAL ORDER D-6

SUBJECT: DUTY COMMAND OFFICER PROGRAM

PURPOSE

The purpose of the Duty Command Officer (DCO) is to provide **staff level supervision*** to those persons charged with the operation of the Department during those times when no Staff Officer is on duty.*

POLICY

All staff officers, with the exception of the Chief of Police and Deputy Chief of Police* **shall** serve as Duty Command Officer.

PROCEDURES

- 1 - Service as Duty Commander **shall** be for a one-week period, commencing at 0800 hours on Monday through 0800 hours on the following Monday.
- 2 - Selection of on-call weeks **shall** be based on seniority in rank.
- 3 - The Patrol Division Captain **shall** coordinate the selection of on-call weeks, prepare a written schedule, and distribute the schedule, when completed, to:
 - (a) The Chief of Police, each Commanding Officer, the Patrol Lieutenants' Office, the Patrol Sergeants' Office, and the Public Safety Communications Center.
- 4 - The Duty Command Officer **shall** be immediately available by telephone or pager unit to provide staff level supervision either by instructions via telephone or by responding directly to the Police Department of field command post.*
 - (a) Other responsibilities may include:
 - (1) Attendance at City Council meetings
 - (2) **Attend other City meetings as assigned.***
- 5 - The Duty Command Officer **shall** be notified of all cases involving:
 - (a) homicide
 - (b) escape or jail break
 - (c) death or serious injury of a person in custody
 - (d) kidnapping

* Highlighted text is new

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 1, 2000

GENERAL ORDER D-6

- (e) missing juveniles under the age of 12 years
 - (f) bombing
 - (g) serious injury to an officer or caused by an officer
 - (h) officer-involved shootings
 - (i) hazardous spills
 - (j) other events which, in the judgement of the ranking on-duty officer, require Duty Command Officer notification.
- 6 - Notification **shall** be made at the direction of the ranking on-duty officer.
- 7 - The Duty Command Officer **shall** serve as the representative of the Police Department at all Police Review Commission Boards of Inquiry and **regular PRC business meetings. This duty shall include the authority to remove officers from hearings if the hearing appears out of control.***
- (a) He/she **should** be responsive to requests for information and/or assistance by the Police Review Commission, but **should** confine responses to:
 - (1) The scope of the Internal Affairs Bureau investigation.
 - (2) Department policies and procedures.
 - (3) Applicable local, state and federal laws.
 - (4) Procedures of allied agencies in the Criminal Justice System.
- 8 - A written report **shall** be prepared and forwarded to the Chief of Police on the day following the attended PRC Board of Inquiry. An attached exemplar shows the proper format for this report.
- 9 - Reports **should** be completed and delivered to the Office of the Chief on the day following the Board of Inquiry session attended.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 1, 2000

GENERAL ORDER D-6

EXEMPLAR

On _____, the PRC Board of Inquiry

Commissioners: _____ and _____ met to make findings on PRC Case No(s) _____.

1. PRC Case No. _____ /IAB Case No. _____
2. Complainant: _____
3. Accused Officer(s)/Employee(s): _____
4. Allegations and dispositions: _____
5. Comments - (briefly describe the nature and substance of the Board of Inquiry. This should include discussion of policy or other points which may require a response by the Department, reasons for dispositions, areas of controversy (example: "PRC vs. BPD") and may include such other information as may reasonably be included for the Chief's information).
6. Time Spent - (list those Departmental employees attending on and off-duty) and actual time spent at the Board session.

Signature Block

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 31, 1989

GENERAL ORDER R-4

SUBJECT: RESPONSIBILITY AND ACCOUNTABILITY OF DELEGATED
AUTHORITY

PURPOSE

- 1 - The purpose of this General Order is to define that responsibility which is commensurate with authority and to establish accountability for the use of delegated authority.

POLICY

- 2 - It is the policy of the Berkeley Police Department that inherent with delegated authority is the latitude to make decisions and take the necessary actions to satisfy the requirements of each assigned position. Commensurate with the authority, each employee will accept the responsibility for the use, misuse, or failure to use that authority.

PROCEDURES

- 3 - Supervisors will be held accountable for the performance of employees under their immediate control.
- 4 - When delegating, the following guidelines **shall** be considered:
 - (a) Delegation is a function and tool of good management and, when appropriate, Supervisors have the discretion and responsibility to delegate to subordinates.
 - (b) When authority is delegated, it **shall** be the responsibility of the Supervisor to ensure the subordinate has the power to act and has the ability to carry out the assignment. Correspondingly, no one **shall** be assigned responsibility for work without being delegated authority to direct the manner of its performance.
 - (c) Supervisors **should** advise subordinates that they will be held accountable for the exercise of the delegated authority.
 - (d) Although the subordinate may be held accountable for his/her actions, nothing in this policy absolves the Supervisor from ultimate responsibility and accountability for the supervision of subordinates and the use of delegated authority.

References: CALEA Standards
Municipal Police Administration

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 31, 1989

GENERAL ORDER U-3

SUBJECT: UNITY OF COMMAND

PURPOSE

- 1 - The purpose of this General Order is to establish clear-cut lines of authority within the police department in order to promote employee effectiveness, responsibility, and to reduce confusion.

DEFINITION

- 2 - The principle of Unity of Command states that every employee **should** be under the direct control of one and only one immediate Supervisor.

POLICY

- 3 - It is the policy of the Berkeley Police Department that the principle of unity of command **shall** be practiced in all organizational components of the Department to the extent possible.

PROCEDURES

- 4 - Every employee **should** be accountable to only one Supervisor.
- 5 - Only one person **should** be in complete command of any operation or incident.
- 6 - However, in the case of an emergency, a Supervisor is not relieved of the responsibility to act, even though a subordinate or incident is not under the Supervisor's direct command.

References: CALEA Standards
Municipal Police Administration

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 1, 1998

POLICE REGULATIONS – CHAPTER 4

DUTIES AND RESPONSIBILITIES OF THE RANKS AND DEPARTMENT ORGANIZATION

- PR 400 General Responsibilities of Officers and Employees: It **shall** be the duty and responsibility of each officer and employee to fulfill to the greatest extent possible the functions of the Police Department and the bureau, division or unit to which one is assigned and to perform any duty assigned by a superior officer. **An officer's and employee's work performance shall** be in keeping with the focus of the Department's Mission Statement and the concept of Community Involved Policing. The main goals of the Quality Service, Community Engagement and Problem Solving **shall** be the foundation upon which all action is based.*
- PR 401 Individual Responsibilities of Officers and Employees: Each officer and employee of the Department is individually responsible for:
- a. The proper execution of assigned duties.
 - b. The prevention of crime.
 - c. The suppression of crime.
 - d. The enforcement of laws.
 - e. The arrest of offenders, depending upon the nature of his/her specific assignment.
 - f. Maintenance of proper public relations.
 - g. Maintenance of discipline.
 - h. Adherence to rules, regulations, orders and Departmental procedures.
 - i. Enforcement of rules, regulations, orders and procedures among subordinates, depending upon the nature of his/her specific assignment.
 - j. Promptly reporting through channels developments that may adversely affect public or official relations.
 - k. Initiating police action when necessary.
 - l. The proper care and use of Departmental equipment, supplies and facilities.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 1, 1998

POLICE REGULATIONS – CHAPTER 4

PR 402 Responsibilities of Supervisory Officers and Supervisors: Each supervisory officer and supervisor, in addition to the general and individual responsibilities of each officer and employee, **shall** be responsible for:

- a. The detailed inspection of all activities of the employees under one's supervision.
- b. An intimate knowledge of the duties and responsibilities of one's subordinates.
- c. Proper performance of duties and adherence to policies and procedures by each member of one's unit.
- d. The enforcement of rules and regulations among members of one's unit.
- e. Working as closely with one's subordinates as time and area permit.
- f. Providing leadership in carrying out police activities.
- g. Coordination of effort when more than one employee is involved and the proper assignment of duties to each person.
- h. Functional supervision of employees not directly supervised.
- i. Detailed training on the job as necessary to insure efficient operations by one's subordinates.
- j. The effective operation of one's unit.
- k. Providing command to members of one's division as necessary in the absence of divisional command or a ranking officer.

PR 403 Responsibilities of Commanding Officers: Each Commanding Officer, in addition to the general and individual responsibilities of each officer, employee, supervisory officer and supervisor, **shall** be held responsible for:

- a. The proper direction and control of personnel under one's command.
- b. The maintenance of discipline among members of one's command.
- c. Proper performance of duties and adherence to policies and procedures by each member of one's command.

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- d. The enforcement of rules and regulations among members of one's command.
- e. Providing supervision and command to members of other divisions as necessary.
- f. The proper discharge of detailed divisional responsibilities.
- g. The proper condition and maintenance of quarters assigned to one's command.
- h. The proper maintenance, use and operation of equipment, supplies and materials assigned for divisional use.
- i. The prompt initiation of employee, supervisory, or administrative action when necessary to fulfill a functional responsibility of the Department when such action is not otherwise being taken.
- j. The effective operation of one's division or unit.
- k. Providing for continuation of command and/or supervision in one's absence.
- l. Preparation of correspondence pertaining to activities of the division.
- m. Complete Duty Command assignments as scheduled.

PR 404

Functional Responsibilities of the Police Department: The functions of the Police Department are the maintenance of law and order in the City; the enforcement in the City of all laws of the United States and the State of California, and all Ordinances of the City, except when such enforcement is by such law, Ordinance, or the Charter of the City made the responsibility of a state or federal agency or officer; the administration of the City jail and the care, custody and control of prisoners; the performance of such other functions as may be assigned by the City Manager or prescribed by Ordinance of the Council or by applicable State law.

Section 2.64.020 of the Berkeley Municipal Code provides that "...The Chief of Police, subject to the approval of the City Manager, shall organize and maintain such divisions in said department as the operations may in his judgment require."

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In conformity with this legislation, the Department is divided into five major units, with sub-units as indicated below, all of which are responsible to the Chief of Police.

1. Office of the Chief
 - a. Chief of Police
 - b. Internal Affairs Bureau
2. Administrative Division
 - a. Accreditation Program
 - b. Bureau of Inspection and Control
 - c. Personnel and Training
 - Underwater Search & Recovery Team (US & R)
3. Patrol Division
 - a. Barricaded Subject/Hostage Negotiation Team
 - b. Community Services Bureau
(transferred to Patrol Division 6/21/92)
 - c. Crime Analysis/Violence Suppression Unit
 - d. Crowd Management Team
 - e. Field Training Program
 - f. Foot Patrol
 - g. Patrol Teams
 - h. Police Reserves
 - i. Special Enforcement Unit
 - j. Telephone Report Team
4. Support Services Division
 - a. Detective Bureau
 1. Homicide

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2. Property Crimes
 - a. Auto Theft
 - b. Forgery/Fraud
3. Robbery
4. Sex Crimes
5. Youth Services
- b. Service Bureau
 1. Identification Unit
 2. Information Management
 3. Jail Operations
 4. Property Unit
 5. Public Safety Communications Center
 6. Records Unit
 7. Report Review
 - Data Entry Operations
 - Report Transcribing
 8. Warrant Detail
 9. Telecommunications Center
5. Traffic Division (established 7/1/90)
 - a. Traffic Bureau
 - Traffic Enforcement Unit
 - Traffic Analyst
 - Commercial Enforcement/Tow Officer
 - Berkeley Junior Traffic Police/Adult Crossing Guards

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- b. Parking Bureau
 - Parking Enforcement
 - Meter Repair & Maintenance
 - City Garages
 - Center Street Garage
 - Berkeley Way Lot
 - Oxford/Fulton Lot
 - Sather Gate Garage
 - Elmwood Lot

PR 405 OFFICE OF THE CHIEF

Administered by the Chief of Police

a. Chief of Police

Function: To set objectives for the Department; make plans; develop procedures; organize and reorganize; provide for staffing and equipping the Department; adopt rules and regulations for the administration, discipline, equipment and uniforms of the members and officers of the Department, fixing powers and duties, and prescribing the penalties for violations of any such rules and regulations, and providing for their enforcement; inspect, assign and promote personnel; coordinate efforts and relationships, establish policies, report on Department accomplishments; maintain good public, employee and official relations; develop the Departmental budget; provide general direction for the Department; and keep the City Manager informed of incidents or developments that may adversely affect public or official relations.

b. Internal Affairs Bureau

Administered by two Sergeants who are directly responsible to the Chief of Police.

Function: To investigate citizen complaints alleging misconduct by Police Department personnel and to investigate internally originated personnel complaints as assigned by the Chief of Police; coordinate the Department's Board of Review process; assist the City Attorney's Office in the investigation of civil claims against the

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Department and/or its employees; assist the City Attorney's Office in the preparation and presentation of Pitchess Motions; act as liaison with the Office of the City Attorney, the Police Review Commission and legal defense attorneys; prepare correspondence relating to personnel complaints and disciplinary actions; and advise the Chief of Police on matters relating to discipline and issues of liability and training as they relate to the disciplinary process.

PR 406 ADMINISTRATIVE DIVISION

Administered by a Captain who is directly responsible to the Chief of Police.

a. Administrative Bureau

Administered by a Captain who is directly responsible to the Chief of Police.

Function: Cooperate with City Personnel Department in the preparation and conduct of recruit and promotional examinations; process leaves of absence, terminations and retirements; process service rating reports on all probationary employees and Performance Evaluation reports on all non-probationary employees; provide administrative processing of disciplinary sanctions taken against members of the Department; participate as member(s) of Departmental Boards of Review dealing with personnel complaints; develop and control employee incentive programs; develop, compile and disseminate information pertaining to the promotion of health, welfare and morale of police personnel; schedule examinations with contractor administering fitness program; maintain Departmental personnel files and develop personnel data as requested by the Chief of Police; compile Department strength and assignment reports on a monthly basis from data received from other units.

a. Accreditation Program

Administered by a Lieutenant who reports directly to the Administrative Division Captain.

Function: To coordinate the Department's accreditation effort; to maintain Departmental orders, regulations and manuals; to administer the Career Development Program; to maintain Departmental Affirmative Action statistics; to compile the Departmental Monthly Management Report for the Chief of police (to the City Manager); to investigate and prepare reports of claims

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for damage to uniforms; to maintain the Special and Temporary assignment rotation file; to coordinate the Department's involvement in the City of Berkeley Project Management System; to coordinate and track the Department's participation in the City of Berkeley quarterly Performance Measures program; handle other staff assignments and special projects as assigned by the Administrative Division Captain; to assist the Administrative Division Captain as assigned.

b. Bureau of Inspections and Control

Administered by a Lieutenant who is directly responsible to the Administrative Captain.

Function: To plan and conduct research; prepare surveys, studies and projects; schedule visits of outside and foreign officials who are studying local police procedures; originate and respond to correspondence; draft replies to questionnaires, and other outside inquiries; coordinate the preparation of the annual budget; monitor budget expenditures; develop and assist in the administration of grant programs; audit medical expenses incurred by the Department in its investigative and custodial activities; perform staff inspections/audits of all functional areas of the Department; plan, coordinate, prepare and write the Special Order for the bi-annual inspection of the Department; act as Adjutant for the Departmental Annual Inspection; handle other staff assignments and special projects as assigned by the Administrative Captain.

c. Personnel and Training

Administered by a Sergeant who is directly responsible to the Administrative Captain.

Function: To administer reimbursement monies from California Peace Officer Standards and Training (POST) Commission, maintaining close liaison with City Auditor in this accounting responsibility; process expense accounts for Police personnel; to assist City Personnel Department in the preparation and conduct of recruit examinations; conduct pre-employment personnel investigations; to develop and direct Departmental training programs, including scheduling mandated and job-specific training, both in-house and outside; maintain liaison with other police agencies on matters of personnel and training, and arrange for the interchange of teaching materials and instructors; collect pertinent information for police training files; prepare and issue Departmental Orders concerned with personnel, training and administrative matters; assist in the preparation and issuance of Departmental

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Training Bulletins; assist in the processing of personnel commendations, both internally prepared and those received from citizens; develop specifications for uniforms and other equipment and determine that the equipment used by members of the Department complies with specifications; requisition, inventory, maintain and issue safety equipment; develop and supervise effective health and safety programs including the investigation preparation of proper reports of injuries to personnel received in the line of duty, and preparing reports to contractor administering Worker's Compensation Insurance, City Personnel Department and City Risk Manager; process all correspondence of persons and recruit and process applicants for the Police Aide positions in cooperation with City Personnel Department; develop and direct a training program, make duty assignments, maintain individual school and work records, and evaluate, counsel and direct the development of the Aides in their career objectives; to assist in compiling Department strength and assignment reports on a monthly basis from data received from other units; to assist the Administrative Division Captain and other Division/Department personnel as assigned.

1. Underwater Search and Recovery Team (US & R)

Administered by the Personnel & Training staff who are responsible to the Administrative Division Captain.

Function: To perform underwater searches in the Aquatic Park lagoon and in San Francisco Bay waters within Berkeley City limits to locate vehicles, weapons, human remains, or other items of investigative interest or evidentiary value. Team members are also available to assist outside agencies with water searches when requested under Mutual Aid. Under certain circumstances, the Team may assist in actual rescue attempts at the scene of boating accidents or similar incidents. The US & R is comprised of full-time members of both the Police and Fire Departments. All Team members must be certified Self-Contained Underwater Breathing Apparatus (SCUBA) divers and must obtain additional training and certification in the "Search and Recovery" specialty prior to actual deployment.

PR 407 PATROL DIVISION

Administered by a Captain who is directly responsible to the Deputy Chief of Police. Assistance to the Captain is provided by the Patrol Lieutenants and the Special Enforcement Bureau Lieutenant.

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a. Barricaded Subject/Hostage Negotiation Team (BSHNT)

Administered by designated employees who are directly responsible to the Captain of the Patrol Division.

Function: The primary purpose of the BSHNT is to handle barricaded subject situations, with or without hostages using specially trained employees. It is also used for protection of individuals and the service of high-risk felony warrants.

b. Community Services Bureau

Administered by a Sergeant who is directly responsible to a designated Patrol Lieutenant.

Function: To develop, direct, and maintain a broad based crime prevention program sensitive to the overall prevention needs of the community; meet with concerned citizen groups, neighborhood associations, and merchant groups to assist in the development of crime prevention programs; coordinate crime prevention efforts within the Berkeley Police Department, other City Departments, police departments, governmental agencies and community organizations which are engaged in related programs; maintain a community relations program by meeting with various community groups, in both formal and informal settings, and respond to their needs; respond to requests for officers to speak before community groups, organizations, and schools as well as schedule the appearances; utilize available crime analyst data within the Department as an information source to address specific locations by crime type, and to assist in the application of specific programs dealing with both Department and community needs; work closely with the Partnership Against Crime coordinator to better provide services to members of the community and organized business and residential neighborhoods; manage the "Are You OK" program; administer the Police Activities League program; coordinate and supervise the activities of the Berkeley Police Explorer Scout Post and the volunteer program (Transferred to Patrol Division 6/21/92)

c. Crowd Management Team (CMT)

Administered by a designated Lieutenant(s) who is directly responsible to the Captain of the Patrol Division.

Function: The primary purpose of the CMT is to serve as first and/or primary responders to those designated situations warranting crowd management (i.e., unusual occurrences, civil

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disturbances, etc.).

d. Field Training Officer Program (FTO)

Administered by a Sergeant(s) who is directly responsible to the designated FTO Lieutenant assigned to Patrol.

Function: The purpose of the FTO program is to train entry level and lateral officers to operate within Department guidelines, policies and procedures.

e. Foot Patrol

Supervision of a functional nature is provided by a Sergeant assigned to a day shift, who is directly responsible to the day watch Lieutenant.

Function: To provide visible foot and/or bicycle patrol in business districts, high crime areas and as otherwise directed; discourage those types of crimes generally associated with congested pedestrian conditions; assist at crowd control scenes; and perform other specialized police functions in times of emergency need.

f. Patrol Teams

Administered by Lieutenants who are directly responsible to the Captain of the Patrol Division.

Function: To provide 24-hour uniformed patrol coverage to all areas of the City with each Patrol Team working 10 hour shifts; receive, process and investigate complaints by citizens; observe and investigate circumstances which require attention; prevent crime; preserve the peace; arrest offenders; protect life and property; provide traffic enforcement; administer the Departmental motor pool and portable radios, and issue and maintain special equipment; attend Neighborhood Watch and other community meetings as directed; control public gatherings; provide traffic direction and control; perform miscellaneous services relative to public health and safety; prepare reports and testify in court.

g. Police Reserves

Administered by a Sergeant who is directly responsible to the day shift Lieutenant.

Function: To recruit, train, equip and supervise a volunteer police reserve; assist regular police personnel when the need for police services exceeds that available from the normal complement of the

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Patrol Division; maintain adequate personnel and equipment records; assign police reserve officers to provide regular support activity in the field; coordinate, plan, and staff special events; provide supervisory personnel from within the Reserve ranks; perform other specialized police functions in times of emergency need.

h. Special Enforcement Unit

Administered by a Lieutenant who is directly responsible to the Captain of the Patrol Division.

Function of Administrative Narcotics Unit: Responsible for gathering, analyzing, and disseminating information regarding narcotics-related criminal activity; acting as a liaison with the court and District Attorney; maintaining records of SEU cases charged/not charged and providing feedback to handling officers about those cases; developing an alpha file of local drug offenders and providing that information to DTF and SIB personnel; identifying, tracking, and prosecuting those involved in organized narcotic-related crime; providing drug abatement training for Patrol officers; coordinating asset forfeitures with State and Federal agencies.

Function of Drug Task Force (DTF): To provide drug enforcement directed against street level dealers; take assertive action against street drug dealers; implement "buy/bust" operations using undercover buyers; respond to "hot spot" complaints when available; monitor police channel 1 for current activities and specialized assignments when required; operate jointly with other agencies to suppress drug dealing; respond tactically to other crime problems as assigned.

Function of Special Investigations Bureau (SIB): To prevent drug trafficking, prostitution, illegal sale or use of narcotics and alcoholic beverages, and gambling; prevent other forms of commercialized vice; give particular attention to places where commercialized vice may be conducted and take every legal means to arrest those persons who may be engaged in such commerce; inspect and enforce regulations concerning the operation of on and off sale alcoholic beverage establishments; investigate applicants for adult dance permits, skating rink permits, entertainment permits, and inspect such locations; and to work closely with other City departments, law enforcement agencies, and other agencies on matters of mutual concern.

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i. Telephone Response Team (TRT)

Functional supervision is provided by Sergeants of a day or evening Patrol Team, depending on hours of assignment of TRT officers.

Function: To handle those calls for service which do not require the presence/assignment of an officer at the scene. The officers also provide assistance to citizens at the Front Counter at the Hall of Justice and to the Jailer, when assigned. Officers may occasionally be assigned to work in a mobile sub-station.

PR 408 SUPPORT SERVICES DIVISION

Administered by a Captain who is directly responsible to the Chief of Police.

a. Detective Bureau

Administered by a Captain who is directly responsible to the Chief of Police.

Function: To handle follow-up investigations of all reported crime involving adults and juveniles (with the exception of crimes involving auto burglary, thefts from autos and traffic-related matters); coordinate pawn shop and secondhand store transactions; investigate applications for used car dealers and wrecking permits; assist in felony and misdemeanor investigations by other jurisdictions; maintain investigative liaison with other law enforcement agencies; investigate crimes involving child abuse (physical and sexual) and child neglect; develop police programs dealing with juvenile control, delinquency prevention and drug awareness education; dispose of all cases involving juveniles as prescribed in Departmental Orders; maintain cooperative relationships with other agencies concerned with juvenile matters; provide individual treatment in the disposition of juvenile offenders; develop crime analysis information to assist in effective Patrol Division operations and to better inform the community of crime matters, and coordinate media requests.

b. Service Bureau

Administered by a Lieutenant who is directly responsible to the Captain of the Support Services Division.

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1. Identification Unit

Administered by an Identification Expert who is responsible to the Lieutenant of the Service Bureau.

Function: To provide identification services, including fingerprinting, photography and the maintenance of fingerprint identification and photograph files; examine crime scenes for identification evidence; conduct latent finger prints and handwriting comparison examinations; provide other technical services as appropriate.

2. Information Management

Administered by the Service Bureau Lieutenant who is directly responsible to the Captain of the Support Services Division.

Function: Development, implementation and maintenance of all computer related information management systems applicable throughout the Department.

3. Jail Operations

Administered by the Service Bureau Lieutenant and the Jail Operations Sergeant, who are directly responsible to the Captain of the Support Services Division.

Function: To insure the safe and efficient operation of the City Jail; provide for the short term detention of persons pending arraignment in court; insure that there is adequate staffing to provide for the physical needs and safety of all inmates; and provide for the safekeeping of prisoners' property during their detention in the City Jail.

4. Property Unit

Administered by a Supervisor who is directly responsible to the Lieutenant of the Service Bureau.

Function: To safeguard, inventory and process property and evidence related to investigations conducted by Department personnel; maintenance and monitoring of supplies for the police facility.

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5. Public Safety Communications Center

Administered by a Lead Sergeant who is directly responsible to the Lieutenant of the Service Bureau.

Function: To maintain the Public Safety Department's computer aided dispatch (CAD), radio and telephone communications systems; receive all incoming calls for emergency and routine Public Safety services; dispatch and assign Public Safety units; maintain radio discipline and control; provide information to the public; prepare the police CAD Daily Bulletin; and maintain related Public Safety files.

6. Records Unit

Managed by a Supervisor who reports directly to the Service Bureau Lieutenant.

Function: To maintain report and record files of the Department; furnish information and answer inquiries as outlined in Departmental Orders; handle Departmental correspondence not otherwise assigned by order or practice; process applications and issue permits; issue reports and provide information from these data as the Department may require; receive bail or arrange court appearances during the hours the Municipal Court Office is closed; maintain liaison with units of other City departments in securing and maintaining adequate communications and services needed in police operations and quarters; inventory and have custody of all property in the possession of or received by the Department, except evidence in the custody of the Detective Bureau; supervise the maintenance and use of police buildings; assist other Divisions in emergencies as necessary.

7. Report Review

Administered by a Supervising OAll who reports directly to the Service Bureau Lieutenant.

Function: Report Review is responsible for ensuring that police reports are transcribed and processed in a timely manner, meeting quality control guidelines, coding properly for entry into the Records Management System, distributed appropriately, and report liaison for the District Attorney's office.

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8. Warrant Detail

Administered by a Sergeant who is directly responsible to the Lieutenant of the Service Bureau.

Function: To serve all felony and misdemeanor warrants; serve certain criminal subpoenas on persons living outside the City.

PR 409 TRAFFIC DIVISION (established 7/1/90)

Administered by a Captain who is directly responsible to the Deputy Chief of Police.

a. Traffic Bureau

Administered by a Sergeant who is directly responsible to the Captain of the Traffic Division.

Function: To enforce traffic regulations; investigate traffic hazards and initiate remedial measures; prepare and maintain charts and summarize for use by Patrol and Traffic Divisions in maintaining selective enforcement programs; cooperate with public schools, other agencies and organizations to provide traffic safety education and information; prepare reports for the Chief of Police, City Manager, City Council, or others as directed; cooperate with City Traffic Engineer in developing engineering plans for the solution of traffic problems; initiate and assist in the preparation and review of traffic control legislation; oversee the police tow contract with private contractors and conduct post storage tow hearings; conduct the report review process on all collision reports; administer the tow program for the identification, locate and tow vehicles with accumulated parking citations; enforce California Vehicle Code sections relating to commercial vehicles; administer the Traffic Division motor pool, and issue and maintain special equipment. In conjunction with the Berkeley School District, train and supervise the Berkeley Junior Traffic Police and Adult Crossing Guards, and perform other duties as appropriate.

b. Parking Bureau

Administered by a Lieutenant who is directly responsible to the Captain of the Traffic Division.

Function: To enforce local parking regulations; oversee operation of parking garages; maintain and regulate parking in off street lots; enforces preferential parking regulations; make routine collections from meters; keeps records and account for all parking revenues;

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prepares related reports and correspondence for the Chief of Police, and maintains fleet and special equipment.

Use of Force Review Board

301.1 PURPOSE AND SCOPE

This policy establishes a process for the Berkeley Police Department to review the use of force by its employees [in order to identify organizational and individual training needs](#).

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.

301.2 POLICY

The Berkeley 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.

301.3 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.

301.4 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 Support 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 Support 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.

301.4.1 COMPOSITION OF THE BOARD

The Support 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 Sergeant
 - 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.

301.4.2 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.

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.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: June 12, 2008

GENERAL ORDER R-3

SUBJECT: REVIEW BOARD PROGRAM

PURPOSE

- 1 - The purpose of **this Order** is to provide a procedure through which the Chief of Police can review an incident involving a police department employee, equipment or policy to **examine relevant facts in furtherance of an administrative inquiry or action.**

POLICY

- 2 - A Review Board **shall** be convened as a fact-finding body and, unless specifically **required** or requested to do otherwise, **shall** refrain from expressing opinions or making recommendations.
- 3 - The Chief of Police has sole authority to convene a Review Board as **provided by this Order.**

PROCEDURES

- 4 - A Review Board **shall** be comprised of Departmental **employees** of appropriate rank and seniority, as **determined by the Chief of Police.**
 - (a) **Regarding the composition of a Board, the Chief of Police will consider the nature of the subject matter under inquiry and the relevant qualifications of the employees selected to serve as members.**
- 5 - The Chairperson of a Board **shall** be designated by the **Chief of Police.**
- 6 - When appointed, the Chairperson of the Board **shall**, within seven (7) calendar days, convene the **Review Board** and conduct an investigation into the matter within its jurisdiction.
- 7 - The Chairperson **shall** appoint a Recorder from the membership of the Board.
 - (a) **The Recorder will be responsible for taking meeting minutes and for preparation of the final report to the Chief of Police.**
- 8 - Any Board member may select a **qualified subject matter** advisor or resource person to provide **relevant information to the Board.**
- 9 - The Board **shall** avail itself of any Department facility necessary to conduct a complete examination of the circumstances **subject to administrative review.**

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- (a) Department employees **shall** provide assistance or information as requested by the Review Board to facilitate its thorough and objective inquiry.
- 10 - When a Review Board requests the presence of a subject employee at hearing, the employee **shall** be informed of the nature of the inquiry prior to the hearing.
- 11 - Whenever a Review Board's inquiry may result in findings prejudicial to an employee in a criminal or administrative proceeding, the subject employee **shall** be afforded the opportunity to appear before the Board, and present relevant information and evidence.
- 12 - As provided by law or as directed by the Chief of Police, the Board will allow a subject employee to have a representative (e.g., legal counsel, a collective bargaining unit representative, etc.) present during a Board proceeding in which he/she is participating.

ESTABLISHED REVIEW BOARDS

- 13 - The Chief of Police has established the following standing Review Boards, to be convened as needed or directed by related policy directive:
 - (a) Traffic Accident Review Board.
 - (b) Police-involved Shooting/Injury Review Board.
 - (c) Complaint Board of Review.
- 14 - The Traffic Accident Review Board **shall** be responsible for review of all traffic collisions involving a Department employee operating a City-owned vehicle, as set forth in General Order E-3.
 - (a) After evaluating all evidence, the Traffic Accident Review Board will reach a majority decision and present in its final report a recommendation of "Preventable" or "Not Preventable."
- 15 - The Police-involved Shooting/Injury Review Board **shall** be responsible for Department employee-involved incidents involving the use of a firearm or incidents resulting in serious injury or death, as set forth in General Order P-12.
 - (a) After evaluating all evidence, the Police-involved Shooting/Injury Review Board will reach a majority decision, and absent other direction from the Chief of Police, present in its final report a recommendation of "Within Policy," "In Violation of Policy," or

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GENERAL ORDER R-3

"Accidental."

- 16 - The Complaint Board of Review **shall** be responsible for examination of Internal Affairs Bureau investigations of external personnel complaints and, if directed by the Chief of Police, policy complaints, as set forth in General Order P-26.
- (a) After evaluating all information, the Complaint Board of Review will reach a majority decision and present a recommendation for complaint disposition as described in General Order P-26.

FINAL REPORT TO CHIEF OF POLICE

- 17 - Unless otherwise directed by policy or the Chief of Police, the Chairperson **shall** submit a final report of the Board's examination and any other related reports within ten (10) business days following the end of the hearing to the Chief of Police.
- (a) The final report **shall** contain the findings of the Board and the concurring or non-concurring signatures of all its members.
- (1) Dissenting members of a Board may submit a minority report which **shall** be included with the final report.
- (2) The final report **shall** contain the findings and, when so directed, recommendations of the Board.
- (3) Upon approval of the final report by the Chief of Police, the Board **shall** be deactivated.
- (b) Documents, photographs, and related evidence used during the Board's examination **shall** be submitted with the final report.
- 18 - All information associated with Board of Review proceedings **shall** be deemed confidential, and the final report package **shall** be administered in accordance with established personnel record management procedures.

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DATE ISSUED: June 12, 2008

GENERAL ORDER R-3

19 - The memorandum format below **shall** be used when preparing a final report:

EXEMPLAR

To: (Chief of Police)

From: (Name of Review Board)

Subject: (XXXXXXXXXXXXXXXXXXXX)

Composition of the Board: (The Chairperson and members of the Board will be identified).

Summary of the Investigation: (This will be a statement in chronological sequence of the incident and the Board's examination).

Conclusion: (This will contain a statement of the Board's findings and recommendation(s) (e.g., Preventable or Non-preventable)).

Additional Observations: (This entry is optional and can be used to provide the Chief of Police with additional or independent information or observations).

References: General Orders E-3, P-12 and P-26
Government Code Section 3300, et seq.

Firearms and Tactics Unit

347.1 PURPOSE AND SCOPE

This Policy sets forth guidelines governing the organization and operation of the Department's Firearms and Tactics Unit (FTU).

347.2 POLICY

The FTU shall serve to develop, design, implement, instruct, manage, and evaluate all phases of a comprehensive program to enhance the firearms and tactical skills of officers, sworn personnel. The FTU also serves to provide training in Less than Lethal and chemical agent systems as well as to coordinate the maintenance, servicing, and repair of Departmentally authorized weapons.

347.3 PROCEDURES

The FTU shall be administered by a Program Coordinator, who is responsible to the Professional Standards Division's Personnel and Training Sergeant.

The Program Coordinator shall submit reports summarizing the Unit's activities and projects, as needed, through the Personnel and Training Sergeant and Lieutenant to the Professional Standards Division Captain.

347.4 UNIT COMPOSITION

The FTU is composed of the following positions of responsibility:

- (a) Firearms Program Coordinator as defined in section 347.5
- (b) Firearms Instructors: Sworn Officers staff who are selected by the Ddepartment who have completed a POST Certified Firearms Instructor course
- (c) Less than Lethal Instructor: A Ffirearms Instructor who has been qualified to train officers personnel in Lless than Lethal systems deployed by the Ddepartment.
- (d) Armorsers: Officers Members selected by the department who are trained and certified to service and repair Departmentally authorized firearms.
- (e) Lead Armorer: An Aarmorers who is selected by the Personnel and Training Sergeant that works with the Program Coordinator and the Personnel and Training Sergeant to schedule coordinates and task, weapons maintenance, repair and inventory tracking. The Llead Aarmorers also manages the equipment in the indoor range and gun cleaning room. inventories, repair schedules, and other hardware related to the FTU Firearms and Tactics Unit responsibilities
- (f) Chemical Agent Instructors: Officers selected by the Department who have completed requiring certification of completion of a minimum of 40 hours of formal chemical agent instruction training.
- (g) Lead Chemical Agent Instructor: A Cchemical Aagent Instructor who is selected by the

Personnel and Training Sergeant who is responsible for coordinating training and gas mask fit testing as well as the ~~and chemical agent and the~~ purchase and management of related equipment ~~management and purchases~~

Assignments are based on experience, training and ability, not Departmental rank.

347.5 PROGRAM COORDINATOR

The FTU is administered by a Program Coordinator, who is responsible to the Personnel and Training Sergeant.

The responsibilities of the Program Coordinator include:

- (a) Coordinate, develop, manage, and evaluate all Department sponsored firearms training and tactics programs
- (b) Facilitate and remain cognizant of special weapons training programs and be responsive to specialized firearms training needs.
- (c) Coordinate the selection, evaluation, and the continuing education needs of Firearms Instructors and Armorers.
- (d) Serve as the primary resource in firearms, firearms related equipment and firearms training matters for Department Command Staff. Responsibilities in this area include:
 1. Serve as a resource for firearms related training materials, and equipment and provide presentations to Department Staff on these matters.
 2. Work with the Lead Armorer to research evaluate, and implement ~~evaluate changes to~~ Department issued ammunition, authorized firearms ~~or~~ related equipment, and/or modifications of related Department procedures, regulations, or rules ~~in regards to these issues.~~
 3. Serve on the Use of Force Review Board when a firearm was involved in the incident under review ~~all Department Shooting Inquiry Boards.~~
- (e) Prepare, submit, justify and track requisitions for firearms training related equipment, materials, and supplies.
- (f) Receive, disburse, and monitor firearms training related equipment, materials and supplies.
- (g) Work with Departmental Defensive Tactics Instructors to coordinate joint/concurrent use of force training for officerssworn-personnel.
- (h) Coordinate with Firearms Instructors and the Personnel and Training Sergeant to ensure unit and departmental training and equipment goals are identified and met.
- (i) Establish, maintain, and update an accessible central information depository for firearms related equipment and training matters.

347.6 SELECTION PROCESS

The Selection Panel for all positions described in this policy shall consist of the Firearms and

~~Tactics Coordinator, Lead Armorer and a Firearms Instructor chosen by the Personnel and Training Sergeant shall be run by the Personnel and Training Bureau Sergeant, Firearms and Tactics Coordinator or their designee for all positions except for armorer. The Personnel and Training Sergeant and Lead Armorer, or their designees are responsible for running the selection panel for armorers.~~

Final authority for selection shall rest with the Chief of Police based upon the recommendations of the Selection Panel.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: July 11, 1994

GENERAL ORDER F-5

SUBJECT: DEPARTMENTAL FIREARMS TRAINING UNIT

PURPOSE

- 1 - This Order sets forth policies and guidelines governing the organization and operation of the Department's Firearms Training Unit (FTU).

POLICY

- 2 - The Firearms Training Unit shall serve to develop, design, implement, instruct, manage, and evaluate all phases of a comprehensive program to enhance the firearms and tactical skills of sworn, regularly uniformed and plainclothes personnel, as well as Police Reserves of the Berkeley Police Department. The FTU also serves to coordinate the maintenance, servicing and repair of Departmentally authorized weapons.

PROCEDURES

- 3 - The Firearms Training Unit shall be administered by a Coordinator, who is responsible to the Administrative Division's Personnel and Training Sergeant.
 - (a) The Program Coordinator shall submit reports, summarizing, the Unit's activities and projects, as needed, through the Personnel and Training Sergeant and Administrative Division Lieutenant to the Administrative Division Captain.

UNIT COMPOSITION

- 4 - The Firearms Training Unit is composed of the following positions of responsibility:
 - (a) Firearms Program Coordinator (FPC).
 - (b) Primary Firearms Instructors (PFI): requiring certification of completion of a minimum of 120 hours of formal firearms instruction training.
 - (c) Adjunct Firearms Instructors (AFI): requiring certification of completion of a minimum of 40 hours of formal firearms instruction training.
 - (d) Armorer(s): requiring current certification of formal, specialized training in the servicing and repair of Departmentally authorized firearms.
 - (e) Chemical Agent Instructor (CAI): requiring certification of completion of a minimum of 40 hours of formal chemical agent instruction training.
- 5 - Assignments are based on selection, experience, training and ability, not Departmental rank.

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PROGRAM COORDINATOR

- 6 - The Firearms Training Unit is administered by a Program Coordinator, who is responsible to the Personnel and Training Sergeant.
- 7 - The Coordinator's responsibilities include:
 - (a) coordination of the development, design, implementation, instruction, management, and evaluation of all Department sponsored firearms training and tactics programs for sworn regularly uniformed (including Police Reserves) and plainclothes personnel.
 - (b) to facilitate and remain cognizant of special weapons training programs and be responsive to specialized firearms training needs.
 - (c) to coordinate the selection, evaluation, skills enhancement and the tracking of the continuing education needs of Primary and Adjunct Firearms Instructors and Armorerers.
 - (d) to serve as the primary resource in firearms, firearms related equipment and firearms training matters for Department Command Staff.
 - (e) to conduct, upon request of Department Staff, research into and / or presentations regarding Departmentally authorized firearms related training matters and equipment.
 - (f) to research, evaluate, propose or make recommendations to Department Command Staff regarding changes in Department issued ammunition, authorized firearms or related equipment, and/or modifications of Department procedures, regulations or rules in regards to these issues.
 - (g) serves on all Department Shooting Inquiry Boards.
 - (h) conducts regular meetings involving all members of the Firearms Training Unit.
 - (i) attends, upon request of a Command Staff member, Departmental Command Staff meetings.
 - (j) prepares, submits, justifies and tracks requisitions for firearms training related equipment, materials, and supplies.
 - (k) receives, disburses and monitors firearms training related equipment, materials and supplies.
 - (l) secures appropriate training sites for training programs.

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- (m) monitors and maintains firearms cleaning supplies and their storage and usage sites.
 - (n) through Unit Armorers, facilitates and remains cognizant of the maintenance, repair and servicing needs of Department issued weapons.
 - (o) maintains liaison with Departmental Defensive Tactics Instructors to coordinate joint/ concurrent use of force training for sworn personnel.
 - (p) establishes and maintains liaison with Firearms Program Administrators and/or Instructors from other agencies and Firearms Instructors organizations.
 - (q) establishes, maintains and updates an accessible central information depository for firearms related equipment and training matters.
- 8 - It is recognized that the duties the Coordinator is responsible or may require time beyond the Coordinator's regular shift. As much as possible and working with the Coordinator's supervisor, the responsibilities **should** be handled through a flexing of the Coordinator's shift. However, it is recognized that it may occasionally be necessary to compensate, via Compensatory Overtime or Paid Overtime, the Coordinator-when their primary duties do not permit the flexing of his / her shift to meet the duties of the Firearms Program Coordinator.
- 9 - Nothing in this policy precludes the Coordinator from delegating any of their-duties. However, final responsibility for completion of a delegated task rests with the Coordinator.

QUALIFICATION AND SELECTION PROCESS

- 10 - Firearms Instructor Qualifications:
- (a) Demonstrate an interest in firearms instruction.
 - (b) Demonstrate requisite skill level to complete a training course for certification as a Firearms Instructor.
- 11 - Chemical Agent Instructor Qualifications:
- (a) Demonstrate an interest in chemical agent instruction.
 - (b) Demonstrate requisite skill level to complete a training course for certification as Chemical Agent Instructor.
- 12 - Program Coordinator Qualifications:
- (a) Completion of Department probationary period for sworn, full-time employees.

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- (b) Sworn, full-time Department employee.
 - (c) Completion of a certified Firearms Instructor's Course.
 - (d) Documented experience instructing classroom, dry and live fire exercises.
- 13 - The selection process **shall** adhere to the policy set forth in General Order P-15.
- 14 - The Selection Panel **shall** consist of the Administrative Division Captain, Administrative Division Lieutenant, Personnel and Training Sergeant, or their selected alternates.
- 15 - Final authority for selection **shall** rest with the Chief of Police based upon the recommendations of the Selection Panel.

References: General Orders F-2 and P-15

Hostage and Barricade Incidents

407.1 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.

407.1.1 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.

407.2 POLICY

It is the policy of the Berkeley 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. [The National Tactical Officers Association's \(NTOA\) TOA priority of life decision making process should be applied during hostage and barricade situations.](#)

PRIORITY OF LIFE

The NTOA's priority of life decision making process is as follows:

- (a) Hostages
- (b) Innocent involved civilians
- (c) Police officers
- (a)(d) Suspects and subjects

407.3 COMMUNICATION

When circumstances permit, initial responding officers **should** try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers **should** attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators **should** respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

407.3.1 EMERGENCY COMMUNICATIONS

Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record, or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

- (a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i),
- (b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and
- (c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).
- (d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § Section 629.50 is made within 48 hours of the beginning of the eavesdropping.
- (e) The contents of any oral communications overheard are recorded on tape or other comparable device.

407.4 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.

407.4.1 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.
- (c) Request additional personnel, resources and equipment as needed (e.g., Emergency Rescue Vehicle, Mobile Command Vehicle-canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer (PIO).
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

407.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation **should** attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options while not all-inclusive or in any particular order, **should** be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject **should** he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

-
- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages **should** be kept separated if practicable pending further interview.
 - (e) Request additional personnel, resources and equipment as needed ~~_(e.g., canine team, air support)_~~.
 - (f) Provide responding emergency personnel with a safe arrival route to the location.
 - (g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
 - (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
 - (i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
 - (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
 - (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
 - (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.
 - (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

407.5 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 the Special Response Team (SRT) if appropriate and apprising the SRT Commander of the circumstances. In addition, the following options **should** be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with intelligence information and documentation of the incident.
- (f) If it is practicable to do so, arrange for video documentation of the operation.
- (g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).
 1. When considering restricting communication services, a supervisor **should** make the determination that there is reason to believe an emergency situation exists involving

immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the Department obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. ~~In the 1.~~ In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be submitted within six hours after initiating the interruption (Public Utilities Code § 7908).

- 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 Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.
- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.

407.6 SPECIAL RESPONSE TEAM RESPONSIBILITIES

The Incident Commander will decide, with input from the SRT Commander and approval from the Chief of Police or his/her designee, whether to deploy SRT during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the SRT Commander or the authorized designee will be responsible for the tactical portion of the operation and will coordinate the transfer of the operation from Operations personnel to SRT personnel.

~~If two SRT Commanders are on scene, one shall assume Tactical Command and the other shall assume Incident Command of the hostage or barricade situation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for SRT. The Incident Commander and the SRT Commander or the authorized designee shall maintain communications at all times.~~

407.7 ACTIVATION OF ON DUTY OPERATIONS SRT PERSONNEL

On-duty SRT members assigned to uniformed patrol duty, not otherwise involved in an assignment, will respond to the scene of the incident and support the operation. Notice of this response will be made to the Communication Center by the responding SRT officer as soon as possible.

407.8 ACTIVATION OF ON DUTY NON-OPERATIONS SRT PERSONNEL

Upon request of the Incident Commander, available on-duty SRT members in assignments other than uniformed patrol duty will respond and support the operation. The Communication

Center shall be responsible for notifying on-duty SRT personnel of the incident.

407.9 USE OF FIREARMS

Notwithstanding the provisions of the Use of Force Policy, and with the prior approval of SRT Command, officers may discharge firearms to shoot out lights or effect some other physical action against an inanimate object when it reasonably appears that such discharge can be performed safely and that it will result in a significant advantage in bringing a critical incident to a successful resolution.

407.7407.10 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for the completion and/or coordination of incident reports.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: February 1, 2012

GENERAL ORDER X-1

SUBJECT: CRITICAL INCIDENT RESPONSE/BARRICADED SUBJECT HOSTAGE
NEGOTIATION TEAM OPERATIONS

PURPOSE

- 1 - The purpose of this General Order is to explain basic response procedures to critical incidents, and to establish policies and guidelines governing the organization and operation of the Barricaded Subject Hostage Negotiation Team (hereafter referred to as HNT).

POLICY

- 2 - The Berkeley Police Department **shall** exercise control over critical incidents, including, but not limited to, barricaded subject and hostage situations. The Department's goals will be to protect the lives of, and minimize hazards to, all persons related to such events.
 - (a) The Department's goal of protecting the lives of all persons **shall** include the individual responsible for the critical incident, but not to the extent that the safety of others will be compromised.
 - (b) Given the dynamics and unique nature of a critical incident, as much time as may be necessary will be used to advance the potential of a non-violent resolution to the situation.
 - (c) Nothing in this policy **shall** preclude the use of reasonable force to protect individuals from injury or death.
- 3 - A specialized unit within the **Operations** Division, the HNT will be trained and equipped to handle the following situations:
 - (a) Barricaded subject and hostage situations;
 - (b) Service of high risk search and/or arrest warrants;
 - (c) Special circumstance search/rescue operations;
 - (d) Special weapon and tactical support for planned or unplanned Departmental operations; and,
 - (e) Special weapon and tactical support for Crowd Management Team (CMT) operations in incidents involving major violence.
- 4 - Operational commitment of the HNT to resolve any incident presumes the perpetrator is armed or has the means to take human life.

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DEFINITIONS

- 5 - For the purpose of this Order, a reference to the masculine includes the feminine, and the singular includes the plural:
- (a) Barricaded Subject: A person who has the capacity to inflict, threatens, or has inflicted, bodily harm to himself or others, and who confines or restricts himself to a location from which he will not voluntarily leave.
 - (b) Hostage: An individual held or controlled by another person as security for the performance of certain acts or to achieve specific demands.
 - (c) Barricade Incident: An event involving a barricaded subject.
 - (d) Hostage Incident: An event where one person holds another hostage.
 - (e) Barricaded Subject Hostage Negotiation Team (HNT): Specially selected employees trained to resolve critical incidents, including, but not limited to, barricaded subject and hostage situations.
 - (f) Inner Perimeter: The geographic area immediately surrounding the location occupied by a barricaded subject or hostage taker that is contained by officers.
 - (g) Outer Perimeter: The geographic area outside the Inner Perimeter which is strictly controlled by police personnel.
 - (h) Immediate Danger Zone: The area wherein a barricaded subject or hostage taker can inflict injury or death.
 - (i) Potential Danger Zone: The area beyond the Immediate Danger Zone within the Outer Perimeter, over which it is necessary to maintain control.

PROCEDURES

Team Organization

- 6 - The HNT is organized into the following elements:
- (a) Command Element: Comprised of one HNT Commander who has responsibility for all HNT operations, and two tactical commanders who have responsibility for their respective tactical teams.
 - (b) Negotiator Element: Comprised of one team leader, an assistant team leader, and 6-8 negotiators; has the responsibility to advance the resolution of a critical incident through intelligence gathering and negotiation.

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- (c) Tactical Element: Comprised of two, 12 member tactical teams (designated by the colors "blue" or "gold"); has responsibility for tactical missions, including arrest, containment, evacuation, tactical intelligence gathering, rescue, search, security, and support of other planned department operations.
 - (d) Tactical Dispatch: Comprised of Public Safety Dispatchers; may have responsibility for tracking HNT call out status and deployment procedures, establishing communications channels, and maintaining and posting tactical logs and incident events.
 - (e) Logistics Element: Comprised of a team leader and three sworn officers; has responsibility for the procurement and maintenance of team equipment and supplies, other projects as assigned by the HNT Commander, and during a team operation, the establishment of the Incident Command Post.
 - (f) TEMS: Comprised of sworn officers trained and qualified to the standard of Emergency Medical Technician (EMT); responsible for tactical emergency medical support in HNT operations.
- 7 - The Chief of Police **shall** assign team personnel in any manner deemed to be in the best interest of the Department.
- 8 - Element Team Leaders, within the scope of their respective duty, are responsible for supervision, leadership, training, equipment maintenance, and overall performance of their Element.

Selection Process

- 9 - At least every two years, HNT command staff **shall** establish an HNT eligibility list to accommodate HNT staffing needs.
- (a) The announcement and application filing procedures **shall** adhere to the procedures set forth in General Order P-15.
- 10 - Unless otherwise specified by the Chief of Police, all applicants **shall** meet the following criteria to be eligible for appointment to the HNT:
- (a) Have at least three years of law enforcement experience;
 - (b) Have successfully completed Department probation for initial appointment;
 - (c) Have Personnel Appraisal Report ratings of at least "meets requirements" for two years preceding application;
 - (d) Successfully complete a selection board interview.
 - (e) Tactical Element applicants **shall** be able to pass physical fitness and weapons qualification testing.

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- 11 - The Selection Board will be comprised of, at minimum, HNT Command and/or Team Leader representatives.
 - (a) A Commissioner of the Police Review Commission (PRC) **shall** be permitted to attend the selection board interviews to monitor the interview process.
- 12 - The Selection Board is responsible for the evaluation of each applicant and submission of recommendations regarding eligibility to the **Operations** Division Captain.
- 13 - Candidates who are successful in all aspects of the testing process will be placed on an HNT eligibility list, which will remain in effect for no longer than two years.
 - (a) With the exception of appointments to Team command positions, vacancies on the Team **shall** be filled from the eligibility list based on recommendations from HNT Command Staff to the Patrol Captain.
 - (b) Final selection authority **shall** rest with the Chief of Police.
- 14 - The **Operations** Division Captain **shall** recommend a lieutenant for appointment to the position of HNT Commander based on the lieutenant's overall departmental experience, prior work performance, judgment, and reliability. The **Operations** Division Captain **shall** also recommend a qualified sergeant or lieutenant for the appointment to the position of Tactical Commander based on the same aforementioned factors.
 - (a) Criteria applicable to consideration of a lieutenant's appointment to the position of HNT Commander **should** include his/her successful completion of probation at rank, and prior operational experience as a member of HNT.
 - (b) In the event that current Tactical Commanders are not appointed to the position of HNT Comander, the position **shall** be filled from the rank of captain or lieutenant department-wide.
 - (c) Final authority for selection of any member of the HNT Command Element **shall** rest with the Chief of Police.

Training

- 15 - When possible, the Personnel & Training **Bureau shall** arrange for new HNT Tactical and Negotiator Element members to attend an appropriate POST-approved basic training course no later than 12 months after appointment to the team.

Physical Fitness Standards

- 16 - Tactical Element members **shall** be required to meet physical fitness standards designed to ensure individual capability with regard to physical challenges posed

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by tactical operations.

- (a) Authority to establish and maintain the physical fitness standards **shall** rest with the HNT command staff.
 - (b) HNT command staff, with the approval of the **Operations Division** Captain, may implement alterations to established physical fitness standards or the testing process.
- 17 - HNT command staff, or their designee(s), will oversee the administration of physical fitness testing, which will be conducted on a semiannual basis.
- (a) The physical fitness test employed by the HNT is at the discretion of the HNT Command staff.
 - (b) A clearly defined scoring scale **shall** be utilized; a passing score, established by the HNT command staff, **shall** be conveyed to team members prior to beginning a fitness testing process.
- 18 - If a tactical team member is unable to successfully **pass** a scheduled physical fitness test, he/she **shall** be allowed a second opportunity to achieve a passing score no later than 90 days from the initial testing date.
- 19 - Pending participation in a retest described in paragraph 18 of this Order, a tactical team member may continue to participate in HNT training and live operations.
- 20 - If a tactical team member is unable to achieve a passing score after a **second** attempt at the physical fitness test, he/she **shall** be decertified and removed from the HNT.
- (a) A team member removed from the HNT due to failure to meet established physical fitness standards may apply for reinstatement at the next department-wide selection process.

Service Status

- 21 - Unless officially inactive or excused, Team members will ensure their availability for unrestricted participation in all HNT activities.
- 22 - If a team member is unable to perform the duties associated with their HNT assignment for any reason, including, but not limited to, injury or illness, he/she **shall** promptly notify the HNT Commander.
- 23 - If, due to injury or illness, a team member requests approval to temporarily suspend his/her participation in HNT activities, he/she must provide medical documentation directing restricted or modified duty.
- 24 - In situations where an injury or illness is of such a nature that the recovery time may exceed a period of six months, the team member may be placed on inactive

*Highlighted text is new.

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status and precluded from participating in HNT activities.

- (a) Team members who are transferred to inactive status **shall** be placed on the HNT Eligibility List, ahead of candidates pending first appointment, and below previously listed inactive members of similar team assignment.
 - (b) When the inactive team member is eligible for return to "Active" status without duty restriction, and has passed the established physical fitness test in the case of members returning to the tactical element, he/she may be reappointed to their previous team element at the next available vacancy.
- 25 - A team member may be transferred to inactive status due to a conflict with the his/her primary duty assignment (i.e. Internal Affairs, Homicide, etc.), or when otherwise deemed necessary or appropriate, at the discretion of and for a period determined by the Chief of Police.
- 26 - In the event a team member is placed on inactive status, the vacant position may be filled by an appointment from the HNT Eligibility List.
- 27 - A team member who has been on inactive status for longer than twelve consecutive months due to an injury or illness may be removed from the team at the discretion of the Chief of Police.

Command Structure and Responsibilities

- 28 - In operations conducted prior to the transfer of command authority from the **Operations** Division Incident Commander to a HNT Commander, Departmental chain of command and rank structure **shall** be adhered to.
- (a) In the event an HNT Commander is unavailable, HNT Command will be comprised of the **Operations** Division Incident Commander and an HNT Tactical Element Team Leader.
- 29 - When command authority has been transferred to a HNT Commander, the chain of command for HNT personnel **shall** be:
- (a) Incident Commander: Has responsibility to relieve ranking **Operations** Division officer at the scene of the critical incident and assume responsibility for all related field operations.
 - (1) **Shall** develop and ensure the proper resources to implement a tactical plan to resolve the situation.
 - (2) Reports to the Operations Captain, who: ensures the Incident Commander develops and has the resources to implement a plan to resolve the situation; makes notifications to other agencies and individuals when/if appropriate (including the PRC); to provide requisite media liaison; and, reports to the Chief of Police, as necessary.

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- (b) Tactical Commander: Reports to the Incident Commander and is responsible for operations within the inner perimeter.
 - (c) HNT Team Leader: Has responsibility for activities of subordinate HNT members:
 - (1) Tactical Team Leader: Under command of the HNT Tactical Commander, is responsible for the coordination and conduct of actions necessary to implement a tactical plan and assure the success of the assigned mission.
 - (2) Assistant Team Leader: Has responsibility for activities of subordinate HNT members.
 - (3) Negotiator Team Leader: Reports directly to the HNT Incident Commander; has responsibility to direct the establishment and maintenance of communications with a barricaded subject or hostage taker.
- 30 - All team members, whether assigned to the Command, Tactical, Negotiator, Logistics, Dispatch, or TEMS Element of the team, **shall** be responsible for carrying out all tasks and duties assigned by their supervisors.
- (a) Failure of a team member to perform assigned duties may negatively impact the ability of the entire team to perform it's mission. Accordingly, that member may be subject to disciplinary action, up to and including removal from the team.

Patrol Response Procedures

- 31 - Upon notification that an actual or potential critical incident exists, on-duty **Operations** Division personnel **shall** immediately respond.
- 32 - **Operations** Division responsibilities include, but are not limited to:
- (a) Protection of all life: hostages/victims, citizens, emergency response personnel, and suspects.
 - (b) Determination if the facts of the event indicate a barricaded subject and/or hostage taking incident exists.
 - (c) Establishment of an Inner Perimeter using as few officers as possible, who are placed to take advantage of cover, avoid crossfire situations, sufficiently contain the location (e.g., isolates the perpetrator), block routes of escape, and control police activity.
 - (d) Evacuation of injured persons, neighbors and by-standers within the Immediate Danger Zone, and contact with citizens in the Potential Danger Zone.

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- (e) Establishment of an Outer Perimeter that controls pedestrian and vehicular traffic.
 - (f) Attempt to establish communication with the subject.
 - (g) Establish an Incident Command Post, place Patrol communications on a separate radio channel, and initiate a chronological log that includes all pertinent incident information (i.e., suspect actions, weapons discharge, etc.).
- 33 - Strict fire discipline **shall** be maintained, with adherence to Police Regulation 323 and General Order U-2.
- (a) Notwithstanding the provisions of PR 323 and GO U-2, and with the prior approval of HNT Command, officers may discharge firearms to shoot out lights or effect some other physical action against an inanimate object when it reasonably appears that such discharge can be performed safely and that it will result in a significant advantage in bringing a critical incident to a successful resolution.
- 34 - On-duty HNT members assigned to uniformed patrol duty, not otherwise involved in an assignment, will respond to the scene of the incident and provide informational and operational assistance to the scene supervisor.
- (a) Notice of this response will be made to the Communication Center by the responding HNT officer as soon as possible.

On-Duty HNT Activation / Response Procedures

- 35 - Upon request of the ranking **Operations** Division officer at the scene, available on-duty HNT members in assignments other than uniformed patrol duty will respond and provide required informational and operational assistance.
- (a) When requested, the Communication Center **shall** direct all on-duty HNT personnel to respond to the critical incident via intra-department voice-call and all police radio frequencies.
 - (b) If HNT Tactical Element officers sufficient to initiate tactical action at or within the Inner Perimeter respond to the on-duty HNT activation, an HNT Commander **shall** be contacted and directed to respond to the Incident Command Post.
- 36 - Subsequent to arrival at the Incident Command Post and briefing by the **Operations** Division Incident Commander, an HNT Commander **shall** assume the responsibilities of Incident Commander for the incident.

General HNT Activation / Response Procedures

- 37 - It **shall** be the responsibility of the **Operations** Division Watch Commander, the ranking **Operations** Division supervisor, or HNT Commander, if an on-duty HNT

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activation has occurred, to initiate a general activation of the HNT immediately following the determination that one of the following situations exist:

- (a) Barricade incident (as defined in paragraph 5(c) of this Order);
 - (b) Hostage incident (as defined in paragraph 5(d) of this Order); or,
 - (c) Any situation beyond the capacity of on-duty personnel to resolve and which more properly falls within the capabilities of the HNT.
- 38 - Upon determination that the HNT is needed, HNT command **shall** initiate team notifications, **begin personnel/duty assignments, and establish communication with Operations personnel in preparation for the transition of command.**
- 39 - Upon **determination of HNT Command personnel, the team** will assume control of the scene and responsibility for the incident's resolution.
- (a) Negotiator Element personnel will relieve those engaged in communication with the subject and/or assume responsibility for the communication and negotiation process.
 - (b) Tactical Element personnel will relieve initial responding officers and assume control over activities at and within the Inner Perimeter.
 - (c) The HNT Incident or Tactical Commander will relieve the **Operations Division Commanding Officer/ Supervisor.**
 - (d) The HNT Incident Commander will assume responsibility for the resolution of the incident.

Planned Operations

- 40 - In planned operations in which HNT personnel are to be utilized, such as high risk search and/or arrest warrant service, the request **shall** be made through the **Operations Division Captain.**
- (a) HNT **should** be notified as soon as practical once a high risk operation has been identified in order to maximize the opportunity for preparation.

Post-Operational Procedures

- 41 - As soon as practical following the conclusion of the planned or unplanned incident, personnel involved in the Department's response will participate in a debriefing.
- (a) Information received in a post-operational debriefing, as well as from other available sources, **shall** be documented in an After Action Report.
 - (b) HNT command **shall** ensure After Action Reports are completed within 72

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hours of the date of the debriefing.

- 42 - Detective Bureau personnel will be assigned to investigate all criminal acts associated with an incident.
- (a) HNT personnel who witnessed criminal activity, or have first-hand knowledge of facts related to such activity, will submit supplemental reports documenting said information to further the criminal investigation.
- 43 - **Should** police activity relating to the critical incident require administrative review, HNT personnel **shall** assist said inquiry pursuant to policies and procedures set forth in law and Departmental Orders.

HNT Rifle Deployment in Patrol Operations

- 44- Qualified HNT Tactical Element members, when assigned to uniformed **Operations** Division duty, **shall** carry an HNT rifle during the course of their duty shift.
- (a) HNT Tactical Element members not assigned to uniformed **Operations** Division duty may carry their assigned HNT rifle during the course of their duty shift.
- (b) Exception to this policy **shall** be authorized by the HNT Commander, his/her designee, or in unusual circumstances, the HNT member's **Operations** Division supervisor.
- 45 - The HNT rifle is intended as a supplemental firearm to the pistol and shotgun.
- (a) Only rifles and ammunition that have been specifically authorized and provided by the Department **shall** be used.
- (b) The HNT rifle will be stored, maintained, handled, carried while on-duty in police vehicles, and deployed in accordance with the procedures set forth in General Order F-6.
- 46 - **Operations** Division Supervisors **shall** be responsible for insuring all qualified HNT Tactical Element members assigned to Patrol duty under their supervision adhere to the above described policies and procedures regarding the carry, deployment and use of HNT rifles during the HNT officer's duty shift.

References: General Order C-64, D-2, F-6, P-12, P-15, P-26 and U-2
Police Regulations 321 and 323
Event Management Manual

Crisis Intervention **Incidents**

409.1 PURPOSE AND SCOPE

This policy provides guidelines for utilizing the department's Crisis Intervention Team and interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about evaluate a person's mental state and intent in order to effectively and legally interact with the individual.

409.1.1 DEFINITIONS

Definitions related to this policy include:

Crisis Intervention Team (CIT): A specialized team operating within the Operations Division designated to respond to calls involving persons experiencing a mental health crisis.

Crisis Intervention Team Member: A member of the department who has completed 38 hours of Peace Officer Standards and Training (POST) certified Crisis Intervention Training (i.e crisis de-escalations, signs and symptoms of mental illness).

Crisis Intervention Team Coordinator: A CIT trained sergeant or officer responsible for the development and maintenance of the CIT program.

Mental Health Consumer: A description commonly used within the mental health community when referring to an individual diagnosed with a mental illness, who is involved in a mental health crisis, and/or utilizes mental health services.

Mobile Crisis Team: The Mobile Crisis Team (MCT) is a mobile emergency mental health service staffed by licensed mental health professionals and interns. The MCT offers crisis intervention, counseling follow-up and consultation services. The MCT work collaboratively with police personnel, including CIT officers, and act as professional adjuncts. MCT clinicians may be used by CIT officers as consultants regarding crisis intervention. The MCT may also generate referrals for mental health consumers and disposition recommendations for CIT officers.

Person in crisis - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

409.2 POLICY

The Berkeley Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an

overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

409.3 SIGNS

Members **should** be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

Members **should** be aware that this list is not exhaustive. The presence or absence of any of these **should** not be treated as proof of the presence or absence of a mental health issue or crisis.

409.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police **should** designate a Crisis Intervention Team Coordinator an appropriate Division Commander to collaborate with mental health professionals to develop an education and response protocol. It **should** include a list of community resources, to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

409.5 DISPATCH OF CIT MEMBERS

The Communication Center **shall** automatically dispatch the closest available CIT Officer(s) to the following incidents:

- (a) Calls involving actively suicidal subjects.
- (b) Calls normally dispatched as a "violent 5150."
- (c) Incidents involving suspected mentally ill subjects with a weapon.
- (d) Hostage situations or barricaded subjects, until relieved or otherwise directed by the Special Response Team (SRT).

The Communication Center **shall** advise if there are no available CIT Officers to respond.

409.6 FIRST RESPONDERS

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat

should be addressed with reasonable tactics. Nothing in this policy **shall** be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis **should**:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources, such as MH and/or a CIT Officer, as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
 1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) If feasible, employ tactics, such as time, distance, and cover --to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (k) If circumstances reasonably permit, consider and employ alternatives to force.

409.7 DE-ESCALATION

Officers **should** consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members **should** be aware of the following considerations and **should** generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.

- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape **should** the situation become volatile.

Responding officers generally **should** not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

409.8 INCIDENT ORIENTATION

When responding to an incident that may involve mental illness or a mental health crisis, the officer **should** request that the dispatcher provide critical information as it becomes available. This includes:

- Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.
- Contact information for a treating physician or mental health professional.
- ~~Whether there are guns registered to the person~~Guns registered to.
- ~~What, if any, vehicles are registered to the person~~Vehicles registered to.
- ~~Information regarding additional residents at the home~~ (f) Identify additional residents at the home, if responding to incident originates at a specific address).

Additional resources and a supervisor **should** be requested as warranted.

409.9 SUPERVISOR RESPONSIBILITIES

~~Upon request, a~~ supervisor **should** respond to the scene of ~~any~~ interactions with ~~those a person~~ in crisis. Responding supervisors **should**:

- Attempt to secure appropriate and sufficient resources such as additional officers, MH and/or a CIT Officer.
- Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.

(d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.

~~(e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Division Commander.~~

~~Evaluate whether a critical incident stress management debriefing for involved members is warranted.~~

409.10 CIT PERSONNEL RESPONSIBILITIES

On-scene CIT personnel are responsible for the following:

(a) Determining if the call for service warrants a CIT response.

(a)(b) W&I 5150 evaluations.

(b)(c) In the event an Emergency Psychiatric Detention is warranted, the CIT Officer shall prepare the required documentation and make any appropriate referrals.

~~(e)~~

409.10409.11 INCIDENT REPORTING

Members engaging in any oral or written communication associated with a mental health crisis **should** be mindful of the sensitive nature of such communications and **should** exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis **should** keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

409.10-1409.11.1 DIVERSION

Individuals who are not being arrested **should** be processed in accordance with the Mental Illness Commitments Policy.

409.11409.12 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, fingerprinting, releasing property, and responding to records requests, and animal control issues.

(a) Members **should** treat all individuals equally and with dignity and respect.

(b) If a member believes that he/she is interacting with a person in crisis, he/she **should** proceed patiently and in a calm manner.

(c) Members **should** be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or

violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer **should** be promptly summoned to provide assistance.

409.12409.13 EVALUATION

The ~~Crisis Intervention Team Coordinator Division Commander designated to coordinate the crisis intervention strategy for this department~~ **should** ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

409.13 TRAINING

~~In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis. This training **should** take place every two years.~~

~~This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).~~

409.14 CIT OFFICER SELECTION

The position of CIT Officer is an ancillary duty assignment. Officers interested in becoming a member of ~~the Berkeley Police Department~~ CIT **should** complete a standard Special Assignment Application form.

409.15.1 CIT OFFICER IDENTIFICATION

CIT Officers may be identified by a "CIT" lapel pin on their uniforms, affixed in silver letters (gold for CIT trained commanders), over the name plate on the right shirt pocket. The pin acts as an identifier to other officers, mental health consumers/family members and members of the general public that the officer has completed CIT training.

409.15 TRAINING

~~In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis. This training **should** take place at least every two years.~~

~~This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).~~

Mental Illness Commitments

410.1 PURPOSE AND SCOPE

State

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).

410.2 POLICY

Best Practice

It is the policy of the Berkeley Police Department to protect the public and individuals through the legal and appropriate use of the 72-hour treatment and evaluation commitment process (5150 commitment) ~~process~~.

410.3 AUTHORITY

State

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for a 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 only limited to determining if 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) The person who is being evaluated or anyone designated by the person~~

~~(a)(b) An individual who is providing or has provided mental health treatment or related support services to the person~~

~~(b)(c) A family member~~

~~(c) The person subject to the determination or anyone designated by the person~~

~~(d) —~~

410.3.1 VOLUNTARY EVALUATION

Best Practice

~~(a) If an officer encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:~~

~~(b) facilitate the transport of the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.~~

~~(c) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.~~

~~(d) Document the circumstances surrounding the individual's desire to pursue voluntary~~

~~evaluation and/or admission.~~

~~(a)~~—

410.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment **should** consider, as time and circumstances reasonably permit:

(a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.

~~(b) Community or neighborhood mediation services.~~

~~(c)~~(b) Conflict resolution and de-escalation techniques.

~~(d)~~(c) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers **should** consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

410.4.1 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** document the disposition of the person's property on the application, 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).~~

410.5 SEARCH PRIOR TO TRANSPORTATION

Prior to transportation, the officer taking a mentally disordered person into custody pursuant to W&I 5150, or who facilitates the person's request for voluntary psychiatric evaluation, **shall** ensure the person is searched for weapons or items that could present a safety hazard or security concern to ambulance personnel.

410.6 TRANSPORTATION

Best Practice

Persons wishing to self-commit or who are being detained pursuant to W&I 5150 **shall** be transported to an appropriate care facility via ambulance.

Communication Center personnel **shall** be responsible for requesting the appropriate ambulance service, based on information communicated by the requesting officer and requirements set forth

in the service contract(s) maintained with the Alameda County EMS governing non-medical W&I 5150 transportation.

Persons requiring medical clearance prior to delivery to a psychiatric care facility **shall** be transported to the appropriate receiving hospital as determined by ambulance personnel.

~~When transporting any individual for a 5150 commitment, the transporting officer **should** have 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.~~

Officers **shall** evaluate the mentally disordered person's potential for violence when considering transportation logistics.

~~(a) **Non-violent Person:** Officers will not be required to participate in the transportation of a mentally disordered person to the appropriate medical or psychiatric treatment facility.~~

~~(b) **Violent Person, Threat of Violence or Escape/Crime relate-related "HOLDS:"** Officers **shall** participate in the transportation of a mentally disordered person who is violent, where there is a threat of violence or escape, or when the person is subject to a "POLICE HOLD" or "PAROLE AGENT HOLD."~~

~~(a) Participation in transportation may include following the ambulance in a separate vehicle, or, if requested by ambulance personnel or required for security, riding within the ambulance. The officer who participates in transportation by riding in the ambulance **shall** ensure his/her return to Berkeley is arranged prior to departure to the designated treatment facility.~~

Operations/Patrol Division personnel **shall** be responsible for post-commitment transportation of a "POLICE HOLD" prisoner from the involved psychiatric treatment facility.

(a) Individuals cleared with a "fit for incarceration" from a psychiatric facility such as John George Pavilion or Alta Bates Hospital, may be transported to either the Berkeley City or Santa Rita Jail. Consideration **should** be given to any additional investigation or interviews needed for the case.

~~Officers may transport individuals in a patrol unit and **shall** secure them in accordance with the Handcuffing and Restraints Policy. **Should** the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Watch Commander approval is required before transport commences.~~

410.7 TRANSFER TO APPROPRIATE FACILITY

Best Practice

~~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 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.~~

410.8410.7 DOCUMENTATION

Best Practice

The officer **shall** complete an application for a 72-hour detention for evaluation and treatment, provide it to the transporting personnel ~~facility staff member~~ assigned to that patient and retain a copy of the application as the 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 transport personnel ~~evaluating staff member~~ regarding the circumstances leading to the involuntary detention.

410.7.1 ADVISEMENT

State

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).

410.8 VOLUNTARY EVALUATIONS

410.8.1 VOLUNTARY EVALUATION - NOT MEETING W&I 5150 CRITERIA

When an officer encounters an individual who desires to be voluntarily committed for a W&I 5150 evaluation but, in the officer's opinion, doesn't meet the criteria for a hold, the officer **should**:

- (a) Facilitate the transport of the person to an appropriate facility that is able to conduct an evaluation.
- (b) Document the circumstances surrounding the individual's desire to pursue a voluntary evaluation in an MDT or Incident Report.

If at any point the person changes his/her mind regarding the voluntary evaluation, the person **shall** be allowed to decline transport.

410.8.2 VOLUNTARY EVALUATION - MEETING W&I 5150 CRITERIA

When an officer encounters an individual who desires to be voluntarily evaluated AND meets the criteria for a 5150 commitment, the officer **should**:

- (a) Facilitate the transport of the person to an appropriate facility that is able to conduct an evaluation.
- (b) Complete a W&I 5150 Application

Completing the evaluation safeguards for the possibility that the person changes their mind regarding the voluntary commitment during transport and is allowed to leave when they are actually in need of an evaluation at a psychiatric facility.

410.9 CRIMINAL OFFENSES

Best Practice

410.9.1 MINOR 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 citation or completing a report with an out of custody request for a warrant. ~~or a Notice to Appear as appropriate.~~

410.9.2 SERIOUS OFFENSES

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~~ an appropriate mental health facility.
- (d) Indicate "POLICE HOLD" and note the applicable crime(s) on the W&I 5150 application form.
- (e) ~~Advise the Include in the verbal report to~~ transporting personnel that the subject is on a police hold.
- (f) Complete the police report and any supporting documents that will be needed once the individual is released from the police hold.
- (e)(g) Notify oncoming shifts of the future need to transport the subject once he/she is deemed fit for incarceration.

1. ~~that indicate the individual may qualify for a 5150 commitment.~~

~~In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor **should** consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this~~

decision.

410.8 FIREARMS AND OTHER WEAPONS

State

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 § 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~~ is needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling officers **shall** issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers **shall** advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

410.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

State

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer **shall** detail those facts and circumstances in a report. The report **shall** be forwarded to the Detective Bureau, which **shall** be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court **shall** be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department **shall** send written notice to the individual 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.

410.9 TRAINING

Best Practice

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: April 7, 2010

GENERAL ORDER I-16

SUBJECT: MENTALLY DISORDERED PERSONS

PURPOSE

- 1 - The purpose of this Order is to establish policy and procedure for the custody and/or transportation of mentally disordered persons to designated treatment facilities, and other related processes.

POLICY

- 2 - Employees are expected to comply with applicable law and the procedures described in this Order.
- 3 - Employees **shall** reasonably ensure all medical or mental health records or information obtained while providing services to mentally disordered persons remain confidential.
 - (a) Employees **shall** not make public nor reveal to unauthorized persons any information received about mentally disordered persons.
 - (b) Release of confidential information documented in a police report **shall** be handled as set forth in General Order R-23.

DEFINITIONS

- 4 - Deadly Weapon: Any weapon, the possession or concealed carrying of which is prohibited by Penal Code §12020.
- 5 - Gravely Disabled: A person so impaired by a mental disorder that he/she cannot provide for his/her basic needs for food, clothing, or shelter.
- 6 - "In Extremis" Person: A person with a potential life-threatening illness or injury.
- 7 - Mentally Disordered Person: A person who is a danger to him-/herself, others, or is gravely disabled as a result of a mental disorder.

PROCEDURES

Emergency Detention

- 8 - A mentally disordered person may be taken into custody by a sworn peace officer and placed in a facility designated by the County and approved by the State Department of Mental Health for emergency evaluation and treatment (ref. Welfare and Institutions Code (WI) §5150).
- 9 - Officers who take a mentally disordered person into custody pursuant to WI §5150 **shall** complete an Application for Emergency Psychiatric Detention form documenting the following information:

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- (a) The circumstances under which the person's condition was called to the attention of law enforcement;
 - (b) The officer's observations and belief that the person, as a result of mental disorder, is a danger to others, to himself/herself, or is gravely disabled; and,
 - (c) If the emergency commitment is associated with a criminal offense and arrest, the words "POLICE HOLD" and relevant code sections **shall** be written on the Application form.
 - (1) In the event the law enforcement hold is solely related to a parole violation, the words "PAROLE AGENT HOLD" **shall** be written on the Application form.
 - (d) The officer's issuance of the Detainment Admonition (WI §5157(a)).
- 10 - When an officer commits a mentally disordered person under the provisions of WI §5150, the Application For Emergency Psychiatric Detention form **shall** serve as the police report.
- (a) Application forms prepared by officers **shall** be prepared and administered in accordance with established report writing procedures (ref. General Order R-31).
 - (b) If the emergency commitment is associated with a criminal offense and arrest, the Application form **shall** be incorporated into and bear the same report number as the criminal investigation report.
 - (c) Referral "green" copies of the completed Application for Emergency Psychiatric Detention form **shall** be given to ambulance personnel prior to transport.
 - (d) The officer **shall** ensure a copy of the Application form (i.e., the "white" cover page retained as the police report) is routed to the Berkeley Department of Health Services' Mental Health Division.

Voluntary Committal/Request for Psychiatric Care

- 11 - Employees **shall** facilitate the request of any person in Berkeley for emergency psychiatric care.

Transportation Procedures

- 12 - A mentally disordered person who voluntarily requests transportation, or is subject to WI §5150 detention, for emergency psychiatric evaluation **shall** be transported to an appropriate care facility via ambulance.

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- (a) When requesting an ambulance transport, officers **shall** advise the Communication Center if the mentally disordered person has a known or suspected injury or illness that might require pre-psychiatric commitment medical clearance.
 - (b) Communication Center personnel **shall** be responsible for requesting the appropriate ambulance service, based on information communicated by the requesting officer and requirements set forth in the service contract(s) maintained with Alameda County EMS governing non-medical WI §5150 transportation.
- 13 - A mentally disordered person who is "in extremis" or otherwise requires medical clearance prior to delivery to a psychiatric care facility **shall** be transported to the appropriate "Receiving Hospital", as determined by ambulance personnel.
- (a) Officers **shall** communicate knowledge of and observations regarding a mentally disordered person's physical status (i.e., known or suspected injury, illness or substance influence, history of same, etc.) to ambulance personnel to assist their assessment of whether or not a medical clearance is required.
- 14 - Officers **shall** evaluate the mentally disordered person's potential for violence when considering transportation logistics.
- (a) Non-Violent Person: Officers will not be required to participate in the transportation of a mentally disordered person to the appropriate medical or psychiatric treatment facility.
 - (b) Violent Person, Threat of Violence or Escape/Crime-related "HOLDS": Officers **shall** participate in the transportation of a mentally disordered person who is violent, where there is a threat of violence or escape, or when the person is subject to a "POLICE HOLD" or "PAROLE AGENT HOLD".
 - (1) Participation in transportation may include following the ambulance in a separate vehicle, or, if requested by ambulance personnel or required for security, riding within the ambulance.
 - (i) The officer who participates in transportation by riding in the ambulance **shall** ensure his/her return to Berkeley is arranged prior to departure to the designated treatment facility.
 - (2) Patrol Division personnel **shall** be responsible for post-commitment transportation of a "POLICE HOLD" prisoner from the involved psychological services facility.

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- 15 - Prior to transportation, the officer taking a mentally disordered person into custody pursuant to WI §5150, or who facilitates the person's request for voluntary psychiatric evaluation, **shall** insure the person is searched for weapons or items that could present a safety hazard or security concern to ambulance personnel.
- (a) **When police department personnel have physical custody of a prisoner who is/was subject to emergency psychological commitment and evaluation, custodial and prisoner transportation policies and protocols shall be followed (ref. General Orders J-1 and T-2).**
- 16 - When a person is taken into custody for psychiatric evaluation, precautions **shall** be taken to preserve and safeguard the property in his/her possession or in his/her control on the premises occupied by the person.
- (a) Property may be left in the custody of a responsible relative (i.e., spouse, parent, adult child, and adult brother/sister, but not petitioner), guardian or conservator.
- 17 - If a mentally disordered person is apprehended in either his/her home or vehicle, the responsible officer **should** make reasonable efforts to secure the home or vehicle, or convey its custody to a responsible relative, guardian, or conservator.
- (a) If necessary, **an officer may order the removal of a vehicle from the public right-of-way (ref. Vehicle Code §22651(g) and General Order V-2).**
- 18 - If a mentally disordered person is apprehended away from his/her home or vehicle, and advises that either is in danger if not secured or protected, the officer **should** make reasonable efforts to secure the property and notify a responsible relative, guardian, or conservator.
- 19 - Custody of the personal property (**not in person's immediate possession/control**), vehicle, or home of a mentally disordered person may be conveyed to any responsible adult upon express consent of its owner.

Firearms/Deadly Weapons Procedure

- 20 - When a mentally disordered person detained or apprehended for emergency psychiatric evaluation is found to have in his/her immediate possession or control, any firearm or deadly weapon, the officer **shall confiscate** and retain custody of said firearm or weapon (WI §8102(a)).
- (a) Despite the directive of WI 8102(a), officers **shall** not enter a mentally disordered person's residence, or if in the residence at the time of detention/apprehension, search areas beyond the person's immediate control, solely to seize a firearm or deadly weapon without express consent or a **search warrant**.

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- (b) The officer who confiscates a firearm or deadly weapon from a mentally disordered person **shall** inform the person of the procedures for the return of the seized item (WI §8102(b)).
 - (c) The officer who confiscates a firearm or deadly weapon pursuant to this Order **shall** forward a copy of the police report to the Detective Bureau unit responsible for weapons investigation.
- 21 - Within 30 days of the release of a mentally disordered person from a psychiatric care facility, Detective Bureau personnel may initiate a petition in the Superior Court for a hearing to determine whether the return of a firearm or other deadly weapon would be likely to endanger the person or others (WI §8102(c)).
- (a) **Should** retention of the firearm or deadly weapon be deemed in the best interest of public safety, petitioning Detective Bureau personnel **shall** ensure notice has been sent to the mentally disordered person advising him/her that he/she has 30 days to request a court hearing on the seizure of the weapon and that the failure to request a hearing will result in forfeiture of the weapon (WI §8102(e)).
 - (b) If the mentally disordered person does not respond to the Court within 30 days of notice, Detective Bureau personnel **shall** file a petition for Order of Default to authorize forfeiture of the firearm or deadly weapon.
- 22 - Prior to the return of a firearm seized pursuant to this Order, pre-return requirements described in PC §12021.3 **shall** be accomplished.
- 23 - The final disposition of firearms or deadly weapons confiscated pursuant to this Order, whether abandoned by the owner or forfeited by Court Order, **shall** conform to the property management procedures set forth in General Order P-65.

Service of Court Orders

- 24 - The officer assigned to serve a Court Order directing a mentally disordered person to submit him-/herself to psychological evaluation on a particular date/time and location **shall**:
- (a) Deliver a copy of the Petition and Order received from the Alameda County Sheriff's Office to the person named in the Order.
 - (b) Complete the Affidavit of Service form.
 - (c) Deliver the original of the Petition, Court Order, and Affidavit of Service to the designated psychiatric facility for return to the Superior Court (ref. WI §5208).

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- 25 - The officer assigned to serve a Court Order to take into custody and deliver a mentally disordered person for psychiatric evaluation **shall**:
- (a) Deliver a copy of the Court Order to the person named and take the person into custody.
 - (1) Whenever possible, officers charged with the apprehension of a mentally disordered person **should** dress in plainclothes and travel in unmarked vehicles (WI §5153).
 - (b) Complete the Affidavit of Service form.
 - (c) Facilitate the named person's transportation to a designated psychiatric facility.
 - (d) Deliver the original of the Court Order and Affidavit of Service to the designated psychiatric facility for return to the Superior Court.
 - (e) Deliver a copy of the Court Order to the designated psychiatric facility for its records.
- 26 - Regarding officer responsibility for safeguarding a mentally disordered person's personal property (ref. paragraph 16 of this Order), if the detention is made pursuant to Court Order, the responsible officer **shall** report the property's disposition to the Court in the following format (ref. WI §5211):
- (a) "I hereby report to the Superior Court for the County of Alameda that the personal property of *[name of person apprehended]*, described generally as *[description of property]*, was preserved and safeguarded by *[name of officer, relative, guardian, or conservator]*. The property is now located at *[address]*." *[date/officer signature]*

Psychiatric Facility "Walk Away"/Missing Person Protocol

- 27 - In the event a psychiatric treatment facility notifies this Department that a mentally disordered patient committed by a Berkeley police officer pursuant to WI §5150, or who is a resident of Berkeley, is a "missing person," investigative assistance **shall** be provided in accordance with General Order M-1.

Mentally Ill Parolees

- 28 - When an officer contacts a parolee who is subject to State mental health supervised release conditions, that officer **should** notify the person's parole agent as soon as practical following the contact.
- (a) In the event the contact involves violence, criminal conduct, or results in emergency commitment for psychiatric evaluation, the person's parole agent **shall** be notified.

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(b) In the event the contact involves criminal conduct, established investigative and custodial procedures **shall** be followed.

29 - Non-violent parolees subject to State mental health supervised release conditions who are in need of psychiatric services, but who are not committable pursuant to WI §5150, **should** be referred to mental health services provided by the California Department of Corrections and Rehabilitation Parole Division's Berkeley office.

(a) After normal business hours or as may be necessary, Mobile Crisis Team resources may be requested.

References: Penal Code §§1524, 12020 and 12021.3
Welfare and Institutions Code §§5008, 5150 – 5157, 5200 – 5213, 5325.1, 8100 and 8102
Vehicle Code §22651(g)
General Orders C-2, M-1, P-65, R-23, R-31 and V-2
Training and Information Bulletin 105

Cite and Release Policy

411.1 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.

411.2 POLICY

It is the policy of the Berkeley 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.

411.3 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private persons arrest, **shall** be released from custody on a citation (Penal Code § 853.6).

The citing officer **shall**, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

411.3.1 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.

411.3.2 RELEASE AFTER BOOKING

In some cases it may not be feasible or desirable to release a person in the field. The person **should** instead be released on citation after booking at the jail. ~~All bookings shall be approved by the Watch Commander or the authorized designee.~~

411.4 NON-RELEASE

411.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges **shall** not be released on citation

and **shall** be transported to the appropriate detention facility or held for court or bail after booking:

Disqualifying offenses include (Penal Code § 1270.1):

- (a) Misdemeanor domestic battery (Penal Code § 243(e)(1)).
- (b) Felony domestic battery (Penal Code § 273.5).
- (c) Serious or violent felonies (Penal Code § 1270.1(a)(1)).
- (d) 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).
- (e) Stalking (Penal Code § 646.9).
- (f) 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).

411.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor **shall** be released on a citation unless there is a reason for non-release. ~~The Watch Commander~~ A sSupervisor may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Department and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

- (a) The person arrested is so intoxicated that he/she could be a danger to him/herself or to others. Release may occur as soon as this condition no longer exists.
- (b) The person arrested requires medical examination or medical care or is otherwise unable to care for his/her own safety
 - 1. ~~The Berkeley Police Department shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).~~
- (c) The person is arrested for one or more of the offenses listed in Vehicle Code §§ 40302, 40303 and 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 his/her 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.
 - (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 prisoners to conclude that the suspect **should** be held for further investigation

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release **shall** be noted on the ~~booking form~~ [Probable Cause Declaration \(PC Dec\) Consolidated Arrest Report](#). ~~This form shall be submitted to the Watch Commander for approval and included with the case file in the Records Management.~~

411.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, ~~with subject to Watch Commander~~ ~~SS~~ ~~supervisor~~ approval, unless any of the following conditions exist:

- (a) The misdemeanor cited in the warrant involves violence
- (b) The misdemeanor cited in the warrant involves a firearm
- (c) The misdemeanor cited in the warrant involves resisting arrest
- (d) The misdemeanor cited in the warrant involves giving false information to a peace officer
- (e) The person arrested is a danger to him/herself or others due to intoxication or being under the influence of drugs or narcotics
- (f) The person requires medical examination or medical care or was otherwise unable to care for his/her own safety
- (g) The person has other ineligible charges pending against him/her
- (h) 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 ~~should~~**shall** be done in accordance with the provisions of this policy.

411.6 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- o Misdemeanor traffic violations of the Vehicle Code ([i.e., 12500\(a\) or 14601.1\(a\)](#)) - [cite into Traffic Court](#)
- o [Most misdemeanor traffic violations, such as 20002 VC and 23140 VC](#), **should** not be

given citations. [If there are no other charges and/or the juvenile is not transported to Juvenile Hall, the report should be forwarded to YSD for review and consideration of sending the case to the Juvenile District Attorney, to Juvenile Probation or diversion, see also the Temporary Custody of Juveniles Policy.](#)

- [Violations of the Berkeley City-Municipal codes - cite into Traffic Court](#)
- [Marijuana violations \(i.e., possession, transport, sales\) - cite into Traffic Court](#)

All other misdemeanor violations for juveniles **shall** be documented with a case number and the case **should** be referred to [the Youth Services Detail for review and consideration of sending the case to Juvenile Probation or diversion.](#) ~~the Detective Bureau for further action including diversion.~~

411.7 REQUESTING CASE NUMBERS

Many cases involving a criminal citation release can be handled without requesting a case number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections will require a case number to document the incident properly in a report. This section does not preclude an officer from requesting a case number if he/she feels the situation **should** be documented more thoroughly in a case report.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 27, 2005

GENERAL ORDER C-10

SUBJECT: CITATION RELEASES

PURPOSE

- 1 - This order establishes policies and procedures to implement Penal Code Section 853.6, which authorizes the issuance of a citation release for any misdemeanor offense in which the officer has arrested a person pursuant to Penal Code Section 836 or where he/she has taken custody of a person on a private person's arrest pursuant to Penal Code Section 847.

POLICY

- 2 - It **shall** be the policy of this Department that misdemeanor citations **shall** be issued in lieu of physical arrest and incarceration whenever it is possible to do so within the framework of this Order. Every effort **shall** be made for field citation release of misdemeanor offenders pursuant to Penal Code Section 853.6.

DEFINITIONS

- 3 - "Misdemeanor," as used in this Order, **shall** mean any offense punishable by fine or imprisonment in a county jail for not more than one year.
 - (a) Those offenses that are punishable as either a misdemeanor or a felony **shall** be handled as felonies.
- 4 - The term "arrest," as used in this Order, **shall** mean the taking of a person into custody either by actual restraint of the person or their submission to custody. A citation does not substitute for an arrest; it is issued after an arrest. Citations may be issued in the field or in the Public Safety Building.
 - (a) "Physical arrest" **shall** mean the taking of a person into custody and the transportation of that person to the Public Safety Building.
- 5 - The term arrest "booking," as used in this Order, **shall** mean the completion of a CORPUS Consolidated Arrest Report, taking of fingerprints and a photograph of the arrested person and the completion of the Alameda County Sheriff's Department's Prisoner Property Receipt (Form 230-1) prior to physically incarcerating a person into the jail. This process **shall** be conducted in the jail booking area.
- 6 - The term "field citation release" as used in this Order, **shall** mean the release of an offender in the field after completion of a Wanted Person Systems name check accessed through the Automated Warrant System (AWS) and the National Criminal Information Center (NCIC) and without the defendant being fingerprinted and photographed.

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- 7 - The term "station citation release," as used in this Order **shall** mean the release of an offender from the Public Safety Building following the completion of the CORPUS arrest record and a Wanted Person Systems name check accessed through AWS, CLETS and NCIC.
- 8 - Under Penal Code 853.6(i), whenever any person (18 years or older) is arrested by a peace officer for a misdemeanor, that person **shall** be released according to the procedures set forth in Penal Code section 853.6, unless one of the 9 reasons listed below (a through i) is a reason for non-release. If one of the 9 reasons for non-release listed below applies, the arresting officer still has the discretion to cite-release the person, but if the person is not cite-released, the officer must state on the Consolidated Arrest Report which of the following 9 reasons was/were the reason(s) for the non-release. In addition, please note that being arrested for multiple misdemeanors is NOT one of the 9 reasons for non-release.
- (a) The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others. Persons too inebriated to make their way to safety must be physically arrested. The law in effect provides that a person **shall** never be arrested for intoxication alone unless his/her own safety or the safety of another is jeopardized. A person **shall** never be cited in the field for intoxication. (See also General Order I-15, care of Intoxicated Persons). Persons arrested for 647(f) PC may be released per 849(b) PC when sober.
- (1) Prior Corpus arrest history: No arrest for 647(f) PC in the past 30 days history: Arrest for 647 (f) past 30 days – – cite-release when sober. Service Bureau staff **shall** issue the citation only after a complete records check has been made.
- (2) Prior Corpus arrest may cite-release. If bail posted, the person **shall** not be released until sober.
- (b) The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety. When it is necessary to transport the arrested person to a hospital, a citation may be issued at the hospital in accordance with Departmental policy.
- (c) The person was arrested under one or more of the circumstances listed in Sections 40302 and 40303 of the Vehicle Code.
- (1) When the person arrested fails to present his/her driver's license or other satisfactory evidence of his/her identity for examination.

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- (2) When the person arrested refuses to give his/her written promise to appear in court.
 - (3) When the person arrested demands an immediate appearance before a magistrate.
 - (4) When the person arrested is charged with violating Section 23152.
- (d) There were one or more outstanding arrest warrants for the person. When there are any outstanding warrants for the person, they **shall** not be released on the citation unless so authorized by a supervisory officer. In any event, the outstanding warrant(s) **shall** be cleared prior to release on citation. In accordance with 827.1 PC, a person who is specified or designated in a warrant of arrest for a misdemeanor offense may be released upon the issuance of a citation, in lieu of physical arrest unless one of the following conditions exists:
- (1) The misdemeanor cited in the warrant involves violence.
 - (2) The misdemeanor cited in the warrant involves a firearm.
 - (3) The misdemeanor cited in the warrant involves resisting arrest.
 - (4) The misdemeanor cited in the warrant involves giving false information to a peace officer.
- (e) The person could not provide satisfactory evidence of personal identification.
- (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 immediate release of the person arrested.
- (1) This criterion provides a practical device in allowing physical arrest for legitimate investigative purposes.
 - (2) If the arresting officer is to interrogate the person about the offense for which he/she was arrested, the citation decision may be delayed until a reasonable opportunity to admonish and interrogate has occurred.
 - (3) Physical arrest is proper if evidence of the crime for which the Person was arrested might otherwise be destroyed.

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- (g) There was 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 release of the person arrested.
 - (1) Assault and battery and disturbing the peace are examples of emotionally charged crimes that may continue or resume unless an enforcing cooling-off period is accomplished by physical arrest. The same offense, however committed under some circumstances might be suitable for citation release; for example, if there is no apparent likelihood that the offense or resume, a citation **should** be issued.
- (h) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.
 - (1) State law prohibits the citation release of any person who demands to be taken before a magistrate.
 - (2) The signature of the person arrested is required for the citation release. The citizen **shall** be advised that signing the citation is not an admission of guilt, but only a promise to appear on the assigned date.
 - (3) Minor offenses may also be handled by the complaint-warrant process, even though the person refuses to give his/her promise to appear. The complaint-warrant process may be followed when a person refuses to sign a citation for such minor violations as littering, illegal possession, posting handbills or various animal control regulations.
 - (i) There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination **shall** be specifically stated on the Consolidated Arrest Report.
 - (4) Persons who have been arrested previously as defaulting defendants **shall** not be released on citation because of their demonstrated propensity for failing to appear in court.
 - (5) The fact that an arrested person may have an extensive arrest record **shall not** in and of itself, constitute reasonable cause to believe that they will not appear in court if released on citation.

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- 9 - The Consolidated Arrest Report stating the reason or reasons for non-release **shall** be made available to any party having custody of the arrested person, subsequent to the arresting officer, and to any person authorized by law to release him or her from custody before trial.

FIELD CITATION PROCEDURES

- 10 - Immediately after making an arrest, the arresting officer **shall** determine if the subject meets the criteria for a field citation release. Persons eligible for field citation release **shall** be cited and released at the location of arrest.
- 11 - A Wanted Person Systems name check accessed through AWS, CLETS and NCIC **shall** be conducted by phone or radio for the subject's clearance prior to a field citation release. If communications or data base difficult prevents such clearance, the subject will be transported to the Public Safety Building until such clearance can be completed, whereby the subject will be released as a station citation release.
- 12 - The citation is to be fully completed by the arresting officer and signed by the person arrested. The officer **shall** check the box that is located between lines 12 and 13 of the citation marked "BOOKING REQUIRED" as notification that the misdemeanor was not processed into the CORPUS system and is in need of formal booking.
- (a) When filing out a Field Citation, the arresting officer **shall** also write in a "booking" date and check the "booking required box" between lines 12 and 13 of the form. This date **should** be at least one week prior to the court date assigned in box # 24 of the citation. The booking date **should** be written in just below or just above the "booking required" box.
- (1) The arresting officer **shall** explain to the cited individual that he/she must report to the Front Counter of the Public Safety Building prior to the "booking date."
 - (2) Compliance with this process enables the individual to make arrangements to be processed BEFORE going to court and provides them proof of booking to present to the judge in court.
 - (3) Departmental personnel assigned to process such bookings **shall** insure the individual is provided with a copy of the "Booking Verification Form."

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- 13 - In receiving a person arrested for a misdemeanor by a private person, officers **shall**, if the person is eligible for citation release, promptly cite and release the person. A citizen's insistence on custodial arrest **shall** not influence the officer's decision to cite and release.
- 14 - Except as provided below in (a), an Offense Report is required whenever a citation is issued under this Order. The arresting officer **shall** check the appropriate boxes on the Offense Report that indicate that the responsible was cited in the field and provide the citation number and the assigned date and time of the court appearance. A CORPUS Consolidated Arrest Report **shall** not be completed for a field citation.
 - (a) Field citations for BMC **infraction** sections such as Drinking in Public (13.36.070) that are referred to the Berkeley Traffic Court do not require an Offense Report. The violation must be clearly described on the citation. For example, "BMC 13.36.070 - drinking from 16 oz brand X malt liquor." The citation does require a case number and the violation and subject's information **shall** be entered into an MSC/Cad report. Patrol Supervisors will be responsible for reviewing MSC/CAD reports of these field citations in order to ensure all the proper information is included.
 - (b) **All misdemeanor field citations would require a police report and be sent to the District Attorney's Office for charging considerations with a court date in Oakland.**
- 15 - The case number will be recorded on line 19 of the citation and the original **shall** be routed along with the police report to the District Attorney's office via the supervisory report review process. Review by the District Attorney's Office will be in accordance with Section 41 of this order.
- 16 - Criminal investigation reports submitted by investigating officers to the District Attorney for complaint review and prosecution of adult offenders **should** include a CORPUS and/or CII criminal history printout for each listed offender.
- 17 - The arresting officer **shall** enter the subject's name and other required information in the automated Adult Field Citation log.
- 18 - In all cases where a subject arrested on a misdemeanor charge does not meet the immediate criteria for a field citation release, the subject **shall** be brought to the Public Safety Building for either a station citation release or physical incarceration.

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VEHICLE CODE SECTIONS THAT REQUIRE A WRITTEN OFFENSE REPORT

- 19 - Citations issued for Sections 20002 VC, 23152 VC, 23103 VC, 23109 VC and 23110 VC **should** be attached to the face sheet of the original report and routed to the appropriate Team Sergeant.
- 20 - Citations and face sheets will be reviewed by the Team Sergeant for accuracy and thoroughness and routed to the Report Review Unit.
- 21 - The Report Review Unit will assemble the citation, face sheet and supplemental narrative (if any) and route to the District Attorney for charging.

STATION CITATION PROCEDURES

- 22 - At the Public Safety Building, the arresting officer **shall** attempt to have the subject resolve whatever problem prevented a field citation release, i.e., satisfactory evidence of identity, outstanding warrant(s), etc. Once the problem is cleared, the subject may be released on a station citation release.
- 23 - If any of the circumstances addressed in Section 8 of this order cannot be resolved in a timely manner, the subject **shall** be booked into the City jail and the issue of citation release handled according to Section 42 of this order.
- 24 - A CORPUS Consolidated Arrest Record (CAR) **shall** be completed by the arresting officer for a station citation release. The officer **shall** deposit the CAR in the designated Telecommunications operator in-tray.
- 25 - A Corpus Consolidated Arrest Record (CAR) **shall** be completed by the arresting officer for a station citation release.
- 26 - A Wanted Person Systems name check, accessed through the Automated Warrant Systems (AWS), the California Law Enforcement Teletype System (CLETS) and the National Crime Information Center (NCIC), **shall** be completed by the assigned Telecommunications Operator. If the arrested subject has any outstanding warrants refer to 8(d) of this order.
- 27 - Fingerprinting and photographing of the arrested subject is required station citation releases and will be completed in the Public Safety Building by the Jail Community Service Officers (CSOs). Fingerprints **shall** be cleared by the Alameda County Consolidated Criminal Record Bureau prior to a station citation release.

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- 28- The Consolidated Arrest Report (CAR) is to be left with the Jail Community Service Officers. The officer is to obtain a photocopy of the Consolidated Arrest Report (CAR) and attach it to the offense report prior to submitting it to their Superior for review.
- 29 - The citation is to be fully completed by the arresting officer and signed by the person arrested. The officer **shall** NOT check the box on the citation marked "BOOKING REQUIRED" since the prisoner is being processed in the CORPUS system.
- 30 - Authorization for release from custody will rest with the Jail Community Service Officers once sections 22-25 of the citation have been completed.
- 31 - All jail Community Service Officers assuming the Corpus position **shall** be required to conduct a thorough check of a prisoners arrest history prior to he completion of the citation release process. If there is questionable information within this history which may mitigate such a release, i.e., prior convictions or enhancements, an indication that a State Prison Term has been prescribed, etc, the jail CSO **shall** immediately contact his or her supervisor who **shall** advise the arresting officer of this new information.
- 32 - If the Corpus history reveals that a State Prison Term has been prescribed, the Community Service Officer **shall** immediately contact the California Department of Corrections to determine the prisoners parole status and inquire as to the propriety of a parole hold.
- 33 - Whenever a citation is issued under this order, an Offense Report is required. The arresting officer **shall** mark the appropriate boxes on the Offense Report that indicate that the responsible was cited at the station and provide the citation number and the assigned date and time of the court appearance.
- 34 - The case number will be recorded on the citation and the original **shall** be routed with the corresponding police reports and CAR photocopy to the Patrol Team report tray. See Section 41 of this Order.
- 35 - CSOs assigned to the jail on the third platoon shift **shall** enter the subject's name in the automated Jail arrest log, with the "Disposition" entered as Cite Release.

GENERAL

- 36 - In all cases of citation release, citation copy #2 **shall** be given to the defendant. The issuing officer **shall** explain all necessary procedures to the defendant.

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- 37 - The third copy of the citation may be retained for the arresting officer's use.
- 38 - When a citation is issued, the officer **shall** set the date and time of appearance as set by the following court schedule:
- (a) Court dates for criminal matters heard at the Wiley Manuel Courthouse, 661 Washington Street, Oakland, CA., 94607 **should** be set as follows:
- Misdemeanors Dept. 107, 2 P.M., 21 days from release, 2 P.M.
- Felonies Dept. 112, 2 P.M., 7 days from release, 2 P.M.
- Citation Arrests/Misdemeanor
Dept. 107, 9 A.M., 21 days from release, 9 A.M.
- BMC Misdemeanors will be referred to Berkeley Traffic Court below:
- Traffic matters/ BMC violations/Infraction marijuana offenses are referred to the Berkeley Traffic Court, 2000 Center Street, Department 205. Set an appearance date for 30 days from release at 10:00 A.M.
- (b) Check appropriate box in Section 26 of the citation as noted above.
- (c) If the appearance date falls on a court holiday, set for the first court date thereafter.
- (d) A copy of the up-to-date citation appearance schedule is maintained in the Warrant Detail.
- 39 - When more than one person is charged with the commission of a misdemeanor arising out of one incident and the officer determines that all of the persons **should** be cited, each **shall** be cited to appear in court on the same date.
- 40 - When a person is booked under one of the exceptions to the citation release policy, the booking officer **shall** include in the narrative portion of the Consolidated Arrested Report (CAR) and Offense Report a brief statement explaining why the person was booked, rather than cited.

RESPONSIBILITY OF SUPERVISORS

- 41 - Supervising officers reviewing offense reports **shall**:

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- (a) Review all physical arrest events and/or citation release event to insure that officers are utilizing field citation release whenever possible.
- (a) Ascertain that offense reports for misdemeanor custodial booking cases indicate the reason why a field citation release or station citation release was not done.
- (b) Ascertain that the original citation is submitted, fully legible and complete and that the court appearance date is not scheduled for a court holiday or weekend. The supervisor **shall** promptly route the citation with the corresponding police reports covering the incident to the in-custody report box.

CITATION CRITERIA FOR INCARCERATED PERSONS – JAIL PROCEDURES

- 42 - Misdemeanants, initially not eligible for release on citation and booked, may qualify for release at a later time (i.e., intoxicated persons, emotionally excited arrestee). Such persons may be released on a citation by Jail Community Service Officers in accordance with the provisions of this Order.
- 43 - No person incarcerated **shall** be released on a citation from the jail without the approval of a Community Service Officer Supervisor or Sergeant or above. When released on a citation, the court appearance will be set according to Section 38 of this Order.
- 44 - If a citation is issued to a person who has not been booked and incarcerated in the jail, the arresting officer **shall** provide the citation number and court appearance date in the appropriate space on the report form.

References: California Penal Section 827.1, 834, 835, 836, 847, 849 (b) and 853.6
California Vehicle Code Sections 40302 and 40303
General Orders I-3, J-1, H-2, I-15 and O-5

Foreign Diplomatic and Consular Representatives

412.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Berkeley Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

412.2 POLICY

The Berkeley 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.

412.3 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.

412.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members **shall** be aware of the following:

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
 - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they **shall** not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
 - 1. Diplomatic-level staff of missions to international organizations and recognized family members
 - 2. Diplomatic agents and recognized family members
 - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
 - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
 - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
 - 2. Support staff of missions to international organizations
 - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
 - 4. Honorary consular officers
 - 5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer **shall** promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer **shall** begin the notification process.

412.5 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.

412.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (Note (c))	Yes (Note (c))	Yes	Yes (note (c))	No for official acts Yes Otherwise (note (c))	No immunity or inviolability
Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

Rapid Response and Deployment

413.1 PURPOSE AND SCOPE

Best Practice

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.

413.2 POLICY

Best Practice

The Berkeley Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy **shall** preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

413.3 FIRST RESPONSE

Best Practice

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers **should** consider reasonable options to reduce, prevent or eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers **should** take immediate action, if reasonably possible, while requesting additional assistance.

Officers **should** remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action officers **should** consider:

- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement **should** be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual officer from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.

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- (e) Whether the officers have the ability to effectively communicate with other personnel or resources.
 - (f) Whether planned tactics can be effectively deployed.
 - (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, officers **should** consider summoning and waiting for additional assistance ([Special Response Teamspecial tactics and/or hostage negotiation team response](#)).

413.4 CONSIDERATIONS

Best Practice

When dealing with a crisis situation members **should**:

- (a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.
- (b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.
- (c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.
- (d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

413.5 PLANNING

Best Practice

The Operations Division [Captain or his/her designee Commander](#) **should** coordinate critical incident planning. Planning efforts **should** consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.
- (c) Communications interoperability with other law enforcement and emergency service agencies.
- (d) Training opportunities in critical incident target sites, including joint training with site occupants.
- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) [Response eCoordination ofand resources of](#) emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.

413.6 TRAINING

Best Practice

The Personnel and Training Bureau Sergeant should include rapid response to critical incidents in the training plan. This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.
 - 1. This should include the POST terrorism incident training required for officers assigned to field duties (Penal Code § 13519.12).
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

BERKELEY POLICE DEPARTMENT

DATE ISSUED: September 6, 1995

GENERAL ORDER U-4

SUBJECT: UNUSUAL OCCURRENCES

PURPOSE

- 1 - The purpose of the General Order is to identify planning, operational and coordination responsibilities in the response to and the resolution of unusual occurrences. Unusual occurrences are generally defined as situations, generally of an emergency nature, that result from disasters and civil disturbances.

Specific instructions and checklists for handling unusual occurrences are contained in the Event Management Manual maintained in the Patrol Lieutenant's Office.

POLICY

- 2 - It is the policy of the Berkeley Police Department to maintain the capability to plan for and respond to unusual occurrences so as to provide for the safety of the community.

PROCEDURES

- 3 - Whenever possible, a mission statement (plan) will be developed and communicated to all responding personnel prior to any police response. In scheduled special events, the mission statement will be in writing and briefed to all assigned personnel prior to deployment. In spontaneous events or incidents, the mission statement may be distributed verbally, but must still be an integral part of the planning process.
- 4 - As soon as possible in spontaneous events or incidents, and in every instance in scheduled special events, an operations plan will be developed and followed. When events are scheduled in advance, a Special Order will be developed and distributed.
- 5 - In every unusual occurrence, an Event Commander will be appointed. In small scheduled events or spontaneous incidents, the Event Commander may be a Sergeant. In larger incidents, the Event Commander may be a Watch Commander, the Duty Command Officer, or a Division Commander. **In prolonged civil disorder, the CMT Lieutenant will be the event commander.*** In every instance, the Event Commander will be identified and his/her identity broadcast to all assigned personnel. Every change of Event Commander will be logged in all logs maintained by command post(s) and communication center(s).
- 6 - After-action reports will be the responsibility of the Event Commander having command at the time the incident is declared over, or as assigned by the Division Commander. A copy of the after-action report will be routed via the chain of command to the Chief of Police.

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- 7 - The Patrol Captain is designated as the individual responsible for planning responses to unusual occurrences. The Patrol Captain may delegate this responsibility to one of the Patrol Lieutenants, or **CMT Commander.***
- 8 - The Patrol Captain is responsible for maintaining liaison with appropriate City, County, State, and Federal disaster officials and agencies, to include attendance at meetings, training sessions and exercises as necessary. This function may be delegated to one of the Patrol Lieutenants.
- 9 - All plans developed to deal with unusual occurrences will be reviewed annually and, when necessary, updated.
- 10 - All equipment designated for use in unusual occurrences, to include Department controlled vehicles and radios, will be inspected monthly by the using Division/Bureau and noted deficiencies will be reported in the Monthly Management Report.

References: CALEA Standards
Event Management Manual
CMT Manual*

BERKELEY POLICE DEPARTMENT

DATE ISSUED: April 2, 2007

GENERAL ORDER V-4

SUBJECT: POLICE FLEET VEHICLES, MANAGEMENT AND OPERATION

- 1 - The purpose of this Order is to establish basic regulations governing the management of the Berkeley Police Department's motor vehicle fleet and related equipment, and to define the function of the Fleet Manager.

POLICY

- 2 - It **shall** be the policy of the Berkeley Police Department that City vehicles and related equipment will be used, operated and maintained in compliance with all applicable laws, Departmental Orders, regulations and directives.
- 3 - The use of City vehicles **shall** be confined exclusively to the proper conduct of City business, both within and beyond the city limits of Berkeley.

EMERGENCY VEHICLE OPERATION

- 4 - The following guidelines will govern an officer's response to calls for service and operation of their authorized emergency vehicle:
 - (a) "CODE 1" - Non-emergency, 'routine' call for service. Officers will respond as soon as practical, operate their vehicle without activation of emergency equipment, and obey all traffic laws.
 - (b) "CODE 2" - A non-emergency call for service requiring an immediate response. Officers will proceed to the assignment without unnecessary delay, operate their vehicle without activation of emergency equipment, and obey all traffic laws.
 - (c) "CODE 3" - An emergency call for service requiring an immediate response. Officers will respond without delay, operate their vehicle with emergency equipment activated (minimally, siren and solid forward red lamp), and proceed with due regard for the safety of all persons and property.
- 5 - Officers may operate an authorized emergency vehicle "Code 3" under the following circumstances:
 - (a) When the situation involves, or has potential for, violence;
 - (b) In response to a public safety emergency or life-threatening situation;
 - (c) When an emergency response will enhance the likelihood of apprehending a suspected felon or armed person;
 - (d) When engaged in rescue operations;
 - (e) While engaged in an authorized vehicle pursuit;

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- (f) To accomplish a traffic enforcement contact; or,
 - (g) When otherwise authorized by a sergeant or command officer.
- 6 - Sergeants and command officers may also operate an authorized emergency vehicle "Code 3" when, in the judgment of the sergeant or commander, such response is necessary to effectively manage a critical incident or emergency situation.

VEHICLE OPERATION

- 7 - All employees operating City vehicles **shall** have a driver's license which is valid in the State of California and which is appropriate for the class of vehicle driven.
- 8 - All employees operating City vehicles **shall** drive in a manner that reflects concern for safety and courtesy toward the public.
- 9 - Employees operating non-emergency City vehicles **shall** obey all traffic laws.
- 10 - Only trained and authorized employees **shall** operate specialized-use fleet vehicles (e.g., Mobile Command Vehicle, BSHNT Emergency Response Vehicle, etc.)
- 11 - Keys to Patrol Division vehicles **shall** be maintained in the Patrol Division Equipment Room.
- (a) Primarily assigned for use by Patrol Division personnel, Patrol Division vehicles may be used by other personnel with the approval of a Patrol Division supervisor.
 - (b) Employees **shall** return Patrol Division vehicle keys to the Equipment Room upon the conclusion of the vehicle's use or end of their duty shift.
- 12 - Employees using Patrol Division vehicles, or other available Patrol Division equipment (e.g., radar gun), **shall** document the use and return on the appropriate Equipment Sign-out Sheet.
- 13 - Keys to a City vehicle not assigned to Patrol Division will be maintained within the Bureau/Unit/Detail to which the vehicle is assigned.
- (a) During normal business hours, City vehicles not assigned to Patrol Division may be used by personnel other than those assigned to that vehicle's Bureau/Unit/Detail with the approval of that Bureau/Unit/Detail's supervisor, or if unavailable, the supervisor's lieutenant.
 - (b) After normal business hours, approval to use a non-Patrol Division vehicle may be granted by the on-duty Patrol Division watch commander.

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DATE ISSUED: April 2, 2007

GENERAL ORDER V-4

- (1) To facilitate authorized after hours use of City vehicles not assigned to Patrol Division, keys shall be maintained in a known and accessible location.
- 14 - The Fleet Manager shall be responsible for the maintenance of an accessible storage location for spare keys to City vehicles assigned to this Department.
- 15 - Employees who remove spare vehicle keys from the established storage location shall record their removal and return on the provided equipment management log.
- 16 - Employees shall return spare vehicle keys to the established storage location prior to the end of their duty shift.
- 17 - The driver of a City vehicle shall take every precaution to ensure the safety of the vehicle and its contents. Except for instances of emergency or valid reason, employees shall lock the City vehicle and retain the vehicle's keys whenever the vehicle is left unattended.
- 18 - Employees shall not leave a City vehicle in-service that is known to be unsafe, in an unsuitable condition, or with a fuel tank at less than half capacity.
 - (a) Employees designating a Patrol Division vehicle unsafe or unsuitable for service shall return the primary set of vehicle keys to the Equipment Room and cover them with an appropriately labelled status tag (e.g., "Out of Service".)
 - (b) Under normal circumstances, gasoline for City vehicles shall be obtained from the Corporation Yard.
 - (c) In the event gasoline is not available at the Corporation Yard, with approval of a supervisor, fuel shall be obtained from the designated private fuel contractor.
- 19 - Employees using City vehicles shall remove all refuse contained in that vehicle at the conclusion of its use.
 - (a) Vehicle cleanliness and care for installed equipment shall be expected of all personnel.
- 20 - Supervisors shall regularly inspect City vehicles assigned to their Patrol Team, Detail, or Unit for cleanliness and presence of requisite equipment.

SMOKING IN CITY VEHICLES

- 21 - Prohibited by Berkeley Municipal Code and Administrative Regulation, employees shall not smoke tobacco or similar products in City vehicles.

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DATE ISSUED: April 2, 2007

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- (a) Employees **should** refrain from smoking so close to City vehicles that the smoke/odor could enter and adversely effect the conditions within the vehicle's passenger compartment.

SAFETY BELTS

- 22 - While Vehicle Code §27315(g) exempts public employees operating an emergency vehicle from required use of safety belts, employees are encouraged to use available safety restraint systems, especially while operating an emergency vehicle as authorized by Vehicle Code §§21806 and 21807.
 - (a) Employees operating non-emergency City vehicles **shall** use available safety restraint systems as required by law and Administrative Regulation.

VEHICLE EQUIPMENT

- 23 - Employees **shall** remove all personal equipment and supplies from their assigned City vehicle at the end of each duty shift.
- 24 - Only equipment and supplies approved by the Department **shall** be stored in City vehicles.
 - (a) A list of approved items for City vehicles **shall** be maintained by the Fleet Manager, and will minimally include:
 - (1) First aid medical supplies
 - (2) Fire extinguisher
 - (3) Highway flares (minimum 12)
 - (4) Measuring device (e.g., "Roll-a-tape" or equivalent)
 - (5) Marking chalk or crayon
 - (6) Approved shotgun with ten rounds of live ammunition.
 - (b) Employees who exhaust flares, first aid kit items, or other approved supplies **shall** replace them before returning the vehicle for use by another member of the Department.
 - (1) In the event required supplies are unavailable prior to the employee's end of shift, that employee **should** communicate the deficiency verbally to the on-coming employee who will use the subject vehicle and **shall** submit a Defective Condition Report form to the Fleet Manager.

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- 25 - Designated City vehicles will have the following auxiliary equipment items:
- (a) Cellular telephone
 - (b) Property and vehicle "trackers" (e.g., Lojack)
 - (c) Personal safety restraint devices (e.g., "The Wrap")
 - (d) Ballistic shields and helmets
 - (e) Personal protective equipment/devices (e.g., ballistic shields and helmets)
 - (f) Tire deflation devices
 - (g) Out-agency communication systems
 - (h) Specialized weapon systems (e.g., less-than-lethal weapons)
- 26 - Any extraordinary modification of existing equipment, or installation of supplemental equipment, on City vehicles **shall** occur only with the approval of the Chief of Police, or his/her designee.

INSPECTION: DAMAGE AND DEFECTIVE CONDITION

- 27 - Prior to use, whenever practical, the employee **shall** inspect the vehicle and/or equipment for damage, deficient condition, and contraband.
- (a) Employee's **shall** report discovered damage and/or deficient conditions to their supervisor as soon as practical, and in writing to the Fleet Manager using a Defective Condition Form prior to the end of the employee's duty shift.
 - (1) The employee will ensure all damage found on the City vehicle is accurately documented on the vehicle's Damage Log.
 - (2) When advised of damage to a City vehicle, the supervisor will examine the reported damage and initial any new entry in the vehicle's Damage Log.
 - (3) If not indicated on the Damage Log or otherwise known, the supervisor will make a reasonable effort to identify the source of the new damage.
 - (b) If practical, the employee will resolve defective conditions discovered during pre-use inspection. Conditions that cannot be resolved by the employee will be referred to the Fleet Manager for corrective action.

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- (c) The employee conducting the inspection will be responsible for ensuring proper disposition of non-police equipment or property found within the Patrol Division vehicle.
 - (1) Personal property of another department employee will be returned to that employee.
 - (2) Abandoned property, items of known or suspected evidentiary nature, weapons or contraband **shall** be booked into the Property Room and its disposition documented by the inspecting employee via an existing or newly issued numbered police report.
 - (3) In the event contraband or weapons are located, the employee **shall** notify a Patrol Division supervisor.
 - (i) If directed by a supervisor or command officer, the employee **shall** submit a memorandum describing the discovery of the contraband or weapon.

COLLISION DAMAGE, VEHICLE REPAIR AND MAINTENANCE

- 28 - All collisions or in-service damage involving City vehicles **shall** be promptly reported to a supervisor by the involved/witness employee.
- 29 - Employees **shall** submit non-emergency requests for vehicle repair or maintenance to the Fleet Manager via a Defective Condition Report form.
 - (a) The Fleet Manager will coordinate the requested repair and/or condition correction with Corporation Yard vehicle maintenance supervisor.
- 30 - Unless the privilege is suspended by the Fleet Manager, employees may make requests for minor vehicle repairs or maintenance directly to the Corporation Yard vehicle maintenance supervisor during normal business hours.
- 31 - Employees **shall** not perform emergency repairs (e.g., change flat tires or correct mechanical defects) to City vehicles. The malfunction **shall** be reported to the Communications Center who **shall** request the necessary services from Corporation Yard vehicle maintenance staff.
 - (a) If Corporation Yard vehicle maintenance staff is not available and the involved City vehicle cannot be driven, an authorized tow contractor **shall** be called.
 - (b) If necessary, the City vehicle **shall** be towed to the Corporation Yard.
- 32 - When an authorized tow contractor is requested to provide emergency road service for a City vehicle, the employee responsible for the effected vehicle **shall** secure a completed copy of the charge ticket from the tow truck operator and

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forward it, along with a brief written explanation of the incident necessitating the road service, to the Fleet Manager.

- 33 - In the event of a major collision or other circumstance likely to compromise a vehicle's structural integrity, the City vehicle **shall** be inspected and declared safe for operation by a Corporation Yard police fleet maintenance mechanic prior to its return to fleet service.
- 34 - When a City vehicle is left at the Corporation Yard for repair or urgent resolution of an unsafe condition, the employee responsible for the vehicle **shall** ensure a Defective Condition form containing a description of the problem is routed to the Fleet Manager and a copy is communicated to the Corporation Yard vehicle maintenance supervisor (i.e., left with vehicle.)
- 35 - The employee responsible for a City vehicle left at the Corporation Yard, or at the Public Safety Building pending pick up by Corporation Yard vehicle maintenance staff, **shall** remove the shotgun from the vehicle, if so equipped, and secure it into the Patrol Division Equipment Room weapon locker.
 - (a) The employee placing a weapon into, or removing one from, the Patrol Division Equipment Room weapon locker **shall** log the activity on the locker's equipment control form.
- 36 - The Fleet Manager will facilitate regular City vehicle maintenance, as scheduled by the Corporation Yard vehicle maintenance supervisor.
- 37 - The Fleet Manager **should** ensure City vehicles are professionally washed at least once per week.

POLICE VEHICLE FLEET MANAGER

- 38 - The Fleet Manager **shall** ensure Department fleet vehicles and related equipment are operational and properly maintained.
- 39 - The Patrol Division Commander will designate a Patrol Division sergeant to serve as the Fleet Manager.
 - (a) The Fleet Manager **shall** be responsible to the Patrol Division Team 1 Watch Commander.
 - (b) The Fleet Manager **shall** be responsible for all Departmental vehicles and associated equipment, except those assigned to the Support Services Division Traffic Bureau.
- 40 - An officer or sergeant, designated by the Traffic Bureau Lieutenant, **shall** serve as the Fleet Manager for motorcycles, parking enforcement vehicles, and related equipment assigned to the Traffic Bureau.

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- (a) Unless otherwise directed in this Order, the Traffic Bureau Fleet Manager will have the same responsibilities with respect to indicated Traffic Bureau vehicles as the Patrol Division Fleet Manager does with all other Department vehicles.

41 - Fleet Manager duties **shall** include:

- (a) Liaison with other City Department's concerned with vehicle operation;
- (b) Preparation of reports and maintenance of relevant records;
- (c) Regular inspection of vehicles and equipment;
- (d) Preparation and execution of maintenance and repair schedules;
- (e) Other duties assigned by the supervising Lieutenant.

42 - The Fleet Manager **shall** report fleet-related discrepancies or problems beyond the scope of normal maintenance to the supervising Lieutenant.

References: California Vehicle Code §§165(b)(1), 21055, 21806, 21807, 27315(g)
and 27315.5

Berkeley Municipal Code §12.70.040
City of Berkeley Administrative Regulation 7.1
General Orders C-16, F-2, E-3 and P-12
Police Regulations 234, 336 and 337
Patrol Procedures Manual